

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TEXAS  
AUSTIN DIVISION

NETCHOICE, LLC d/b/a \*  
NetChoice, a 501(c)(6) \*  
District of Columbia \*  
organization, COMPUTER & \*  
COMMUNICATIONS INDUSTRY \*  
ASSOCIATION d/b/a CCIA, a \*  
501(c)(6) non-stock \* CIVIL ACTION  
Virginia Corporation, \* NO. 1:21-cv-00840-RP  
Plaintiffs, \*  
\*  
v. \*  
\*  
KEN PAXTON, in his \*  
official capacity as \*  
Attorney General of Texas, \*  
Defendant. \*

VIDEOTAPED ORAL DEPOSITION OF

CARLOS GUTIERREZ,

DEPUTY DIRECTOR AND GENERAL COUNSEL OF

LGBT TECHNOLOGY INSTITUTE

Friday, November 12, 2021

(Remotely Reported)

VIDEOTAPED ORAL DEPOSITION OF CARLOS

GUTIERREZ, produced as a witness at the instance of the Defendant, and duly sworn, was taken in the above-styled and numbered cause on Friday, November 12, 2021, from 8:02 a.m. to 9:46 a.m., before Debbie D. Cunningham, CSR, in and for the State of Texas, remotely reported via Machine Shorthand, pursuant to the Federal Rules of Civil Procedure.

|    |   |   |                |                                 |
|----|---|---|----------------|---------------------------------|
| 1  | APPEARANCES                             | 2 | EXHIBIT INDEX  | 4                               |
| 2  |   |   | Exhibit Number | Description                     |
| 3  | FOR PLAINTIFFS:                         |   | 3              | Exhibit 1 Gutierrez Declaration |
| 4  | LEHOTSKY KELLER                         |   |                | 15                              |
| 5  | 919 Congress Avenue, Suite 1100         |   | 4              |                                 |
| 6  | Austin, Texas 78701                     |   | 5              |                                 |
| 7  | By: Todd Disher, Esq.                   |   | 6              | --ooOoo--                       |
| 8  | todd@lehotskykeller.com                 |   | 7              |                                 |
| 9  | AND                                     |   | 8              |                                 |
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|    | jeremy@lehotskykeller.com               |   | 10             |                                 |
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|    | By: Benjamin Walton, Esq.               |   | 17             |                                 |
|    | benjamin.walton@oag.texas.gov           |   | 18             |                                 |
|    | AND                                     |   | 19             |                                 |
|    | Courtney Corbello, Esq.                 |   | 20             |                                 |
|    | courtney.corbello@oag.texas.gov         |   | 21             |                                 |
| 16 |   |   | 22             |                                 |
| 17 |   |   | 23             |                                 |
| 18 | VIDEOGRAPHER:                           |   | 24             |                                 |
| 19 | Brian Christopher                       |   | 25             |                                 |
| 20 |   |   |                |                                 |
| 21 |   |   |                |                                 |
| 22 | --ooOoo--                               |   |                |                                 |
| 23 |   |   |                |                                 |
| 24 |   |   |                |                                 |
| 25 |   |   |                |                                 |

|    |                                  |    |   |   |
|----|----------------------------------|----|---|---|
| 1  | INDEX                            | 3  | (Friday, November 12, 2021, 8:02 a.m.)                      | 5 |
| 2  | APPEARANCES                      | 2  | P R O C E E D I N G S                                       |   |
| 3  |                                  |    | 3 THE REPORTER: Today's date is Friday,                     |   |
| 4  | EXAMINATION OF CARLOS GUTIERREZ: |    | 4 November 12, 2021. The time is 8:02 a.m. Central          |   |
| 5  | BY MR. WALTON                    | 6  | 5 Standard Time. This is the videotaped oral deposition     |   |
| 6  |                                  |    | 6 of Carlos Gutierrez, Deputy Director and General Counsel  |   |
| 7  |                                  |    | 7 of LGBT Technology Institute, and it is being conducted   |   |
| 8  | REPORTER'S CERTIFICATION         | 66 | 8 remotely. The witness is located in Silver Spring,        |   |
| 9  |                                  |    | 9 Maryland.   |   |
| 10 | --ooOoo--                        |    | 10 My name is Debbie Cunningham, CSR                        |   |
| 11 |                                  |    | 11 Number 2065. I am administering the oath and reporting   |   |
| 12 |                                  |    | 12 the deposition remotely by stenographic means from       |   |
| 13 |                                  |    | 13 Austin, Texas.   |   |
| 14 |                                  |    | 14 Would Counsel please state their                         |   |
| 15 |                                  |    | 15 appearances and locations for the record, beginning with |   |
| 16 |                                  |    | 16 Plaintiffs' Counsel?                                     |   |
| 17 |                                  |    | 17 MR. DISHER: Yes. This is Todd Disher.                    |   |
| 18 |                                  |    | 18 I am in Washington, DC; and with me today I have Jeremy  |   |
| 19 |                                  |    | 19 Maltz.   |   |
| 20 |                                  |    | 20 MR. MALTZ: And I'm in --                                 |   |
| 21 |                                  |    | 21 (Simultaneous speaker.)                                  |   |
| 22 |                                  |    | 22 MR. MALTZ: -- Virginia.                                  |   |
| 23 |                                  |    | 23 THE REPORTER: I'm sorry. I missed the                    |   |
| 24 |                                  |    | 24 city.  |   |
| 25 |                                  |    | 25 MR. MALTZ: Falls Church.                                 |   |

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| <p>1 THE REPORTER: Thank you.<br/> 2 MR. MALTZ: Thank you.<br/> 3 MR. WALTON: This is Ben Walton, Counsel<br/> 4 for Defendant. I'm in Austin, Texas. With me is also<br/> 5 Courtney Corbello. She is, likewise, in Austin as well.<br/> 6 CARLOS GUTIERREZ,<br/> 7 having been duly sworn, testified as follows:<br/> 8 EXAMINATION<br/> 9 BY MR. WALTON:<br/> 10 Q. Mr. Gutierrez, can you hear me all right?<br/> 11 A. I can.<br/> 12 Q. Okay. Very good. Well, my name is Ben<br/> 13 Walton. I'm from the Attorney General's Office, and<br/> 14 I'll be taking your deposition today which means that<br/> 15 I'll be asking you questions and then you'll be<br/> 16 providing answers. So I want to make sure that we can<br/> 17 hear each other okay.<br/> 18 If I ever -- well, if I ever speak over<br/> 19 you, then please call me on that because I don't want to<br/> 20 do that. So if I ever interrupt you, please just -- you<br/> 21 know, you can give me a visual notice or something; and<br/> 22 I'll allow you to finish yours answers before I jump<br/> 23 back in with another question. Okay?<br/> 24 A. Sounds good.<br/> 25 Q. Since we are on a court record today, I just</p>   | <p>6<br/> 1 question. All right?<br/> 2 A. Sounds good.<br/> 3 Q. If I ever ask you a question and you're not<br/> 4 sure what I'm asking about, I would much rather you go<br/> 5 ahead and ask me for clarification than us trying to<br/> 6 talk past each other. Okay? So if you're not clear on<br/> 7 what I'm talking about, feel free to ask me to clarify<br/> 8 because I want to make sure we're understanding each<br/> 9 other. Okay?<br/> 10 A. Okay.<br/> 11 Q. And I know this is not going to be a long<br/> 12 deposition today; but if at any point you need to take a<br/> 13 break, we can certainly do that. Just at the end of any<br/> 14 of your answers, before I jump back in with another<br/> 15 question, just say, "Hey, I'd like to take a break," and<br/> 16 we'll absolutely do that. Okay?<br/> 17 A. Okay.<br/> 18 Q. Have you ever given a deposition before,<br/> 19 Mr. Gutierrez?<br/> 20 A. I have not.<br/> 21 Q. Okay. All right. So this is your first one?<br/> 22 A. First one.<br/> 23 Q. What did you do to prepare for your deposition<br/> 24 today?<br/> 25 A. Obviously, I spoke to Mr. Disher. I reviewed</p>   |
| <p>1 want to go over a couple of ground rules. Your attorney<br/> 2 probably went over this with you, but I just want to<br/> 3 make sure we're on the same page as far as the<br/> 4 expectations for how this is going to work. You do<br/> 5 realize that, having just been sworn by the court<br/> 6 reporter, that your testimony today is under oath, just<br/> 7 like it would be if you were in a courtroom in front of<br/> 8 a judge and jury, although, we're not in a courtroom<br/> 9 today. Do you understand that?<br/> 10 A. I do.<br/> 11 Q. Okay. And because the court reporter is<br/> 12 trying to record everything that we're saying, it is<br/> 13 important that we speak verbally. So if I ask you a<br/> 14 question, instead of shaking or nodding your head or<br/> 15 saying "uh-huh" or "huh-uh," it will be important just<br/> 16 for you to go ahead and say "yes" or "no" and then use<br/> 17 words to explain your answers so that the written record<br/> 18 is clear on that. Does that sound fair to you?<br/> 19 A. It does.<br/> 20 Q. Okay. And I already talked about the need to<br/> 21 not talk at the same time. So if you'll allow me to<br/> 22 finish asking you a question before you start answering,<br/> 23 even if you can see where I'm going with my question,<br/> 24 and then I'll try to let you make sure you're finished<br/> 25 with your answers before I jump back in with another</p> | <p>7<br/> 1 my declaration. I reviewed the Texas State law. That's<br/> 2 pretty much it.<br/> 3 Q. Okay. And just to be clear for the record,<br/> 4 when you say Texas State law, are you talking about<br/> 5 HB 20?<br/> 6 A. Yes, I reviewed the HB 20 law.<br/> 7 Q. Okay. Was there any other Texas law that you<br/> 8 reviewed other than the text of HB 20?<br/> 9 A. No.<br/> 10 Q. Okay. Would you give me a brief description<br/> 11 of how it was that you came to work for LGBT Tech?<br/> 12 A. Well, actually, my partner and my best friend<br/> 13 started the organization while I was a general counsel<br/> 14 at Discovery Channel. When I left Discovery Channel, I<br/> 15 had had a past of doing telecommunications work before I<br/> 16 went to Discovery. So my first two years was a telecom<br/> 17 law firm; and because that the work that we were doing<br/> 18 at LGBT Tech had now become more policy related, they<br/> 19 asked me to come work after I left Discovery. So I've<br/> 20 been with LGBT Tech kind of tangentially since it was<br/> 21 formed; but officially about three years after it was<br/> 22 formed, I joined as their head of policy.<br/> 23 Q. And what year was that when you joined as<br/> 24 their head of policy?<br/> 25 A. It was probably about six years ago, so I'm</p> |

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| <p>1 going to say around 2015.</p> <p>2 Q. And how would you describe the duties of your</p> <p>3 current position with LGBT Tech?</p> <p>4 A. I think I'm kind of the person that reviews</p> <p>5 the policy side of the business. The business has two</p> <p>6 sides, one's a nonprofit side that distributes</p> <p>7 technology to underprivileged LGBT youth. The other</p> <p>8 side, we engage with policymakers, agencies, and</p> <p>9 corporations interested in dealing with LGBT and</p> <p>10 technology.</p> <p>11 So I kind of oversee the area of that,</p> <p>12 the policy side, and kind of determine what our</p> <p>13 positions will be when it comes to different issues like</p> <p>14 230 encryption, telehealth, digital divide. Those are</p> <p>15 the kinds of issues that we've been involved in.</p> <p>16 Q. Gotcha. So you said there were two sides of</p> <p>17 LGBT Tech, and I heard you say that one side was</p> <p>18 nonprofit. Is the other side for profit, or is it all</p> <p>19 nonprofit?</p> <p>20 A. It's all nonprofit.</p> <p>21 Q. Okay.</p> <p>22 A. I meant the one side is policy. One is</p> <p>23 purely, like, giving out tech equipment to LGBT centers.</p> <p>24 Q. Gotcha. So in determining the pol- -- what</p> <p>25 the policy of LGBT Tech is going to be on any given</p>           | <p>10</p> <p>1 kind of our policies as well. So the PowerOn Centers</p> <p>2 are what provide us kind of the feedback from the LGBT</p> <p>3 community on what issues are important and interesting.</p> <p>4 CenterLink, which is the organization</p> <p>5 that kind of oversees all of the LGBT centers -- it's</p> <p>6 kind of a trade group -- is another organization we work</p> <p>7 with to determine policy as well.</p> <p>8 Q. Within LGBT Tech are there other directors,</p> <p>9 officers, board members, et cetera, that you have to</p> <p>10 coordinate with to determine "this is our policy"; or is</p> <p>11 it you and the President working with all of these other</p> <p>12 entities that you described for me earlier?</p> <p>13 A. So LGBT Tech has only three full-time</p> <p>14 employees. We're a very small organization. So it's</p> <p>15 me, Christopher Wood, the Executive Director, and Ellie,</p> <p>16 who runs the PowerOn Program. So the conversations are</p> <p>17 between me and Christopher Wood, who are the only two</p> <p>18 people involved in the policy side.</p> <p>19 Q. Okay. Thank you. That helps to round out the</p> <p>20 picture.</p> <p>21 Tell me a little bit -- I want to spend</p> <p>22 most of our time today walking through your declaration</p> <p>23 and asking you some questions about it so we make sure</p> <p>24 we understand; but before we get to the nitty-gritty of</p> <p>25 the declaration itself, I just want to ask: How did you</p> | 12 |
| <p>1 issue, who do you discuss that with?</p> <p>2 A. Well, the Executive Director, Christopher</p> <p>3 Wood, and I would discuss that; but, you know, I have a</p> <p>4 lot of relationships with other organizations, like,</p> <p>5 CDT, The Center for Democracy and Technology, the Future</p> <p>6 of Privacy Forum, ITIF. So it's kind of the civil</p> <p>7 rights organization groups where we discuss kind of</p> <p>8 what's coming up, what's important, and what positions</p> <p>9 we take. So a lot of times I'll be asked, "Are you</p> <p>10 interested in joining in this position? What's your</p> <p>11 take on it?" And at that point we'll determine what our</p> <p>12 involvement will be.</p> <p>13 Q. Does LGBT Tech have -- does it have members</p> <p>14 that are other organizations?</p> <p>15 A. We have PowerOn Centers that are</p> <p>16 organizations. So we have 49 PowerOn Centers that we</p> <p>17 work with, and we partner with a lot of other</p> <p>18 organizations.</p> <p>19 Q. Okay. So --</p> <p>20 (Simultaneous speakers.)</p> <p>21 A. -- chapters across the country.</p> <p>22 Q. Gotcha. And when you say "a PowerOn Center,"</p> <p>23 what do you mean by that?</p> <p>24 A. PowerOn Center is the affiliated centers that</p> <p>25 we work with to provide technology and get feedback on</p> | <p>11</p> <p>1 come to write this declaration?</p> <p>2 A. I have been working on Section 230 issues for</p> <p>3 a while now, mainly at the federal level. We did some</p> <p>4 work around the EARN IT Act that was introduced by</p> <p>5 Lindsey Graham that affected Section 230, an encryption.</p> <p>6 As a result of panels that I've done on</p> <p>7 Section 230 and work that I've done, we started chatting</p> <p>8 with NetChoice probably -- gosh, we started talking to</p> <p>9 them about 2019, maybe. They were interested, kind of,</p> <p>10 in our position on Section 230; and they reached out to</p> <p>11 us back in April to support the work.</p> <p>12 And as part of the conversations that</p> <p>13 we've been having, they asked if we'd be interested in,</p> <p>14 you know, kind of laying out our views in a declaration</p> <p>15 in this case; and we agreed.</p> <p>16 Q. Okay. Is there a -- and I don't want to get</p> <p>17 too technical -- but is there a similar law that's been</p> <p>18 passed by Florida to Texas HB 20?</p> <p>19 MR. DISHER: Objection, form.</p> <p>20 Go ahead and answer.</p> <p>21 A. I believe there is a similar law in Florida</p> <p>22 that is moving to the courts at the same time.</p> <p>23 (BY MR. WALTON) And did you sign a</p> <p>24 declaration for use in the lawsuit over the Florida law?</p> <p>25 A. I didn't.</p>  | 13 |

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| <p>1 Q. You did not?</p> <p>2 A. I did not.</p> <p>3 Q. Okay. Why not?</p> <p>4 A. Timing. I mean, we're a small organization;</p> <p>5 and, you know, I don't recall -- I don't recall</p> <p>6 specifically being asked to sign onto that. So it's</p> <p>7 just, you know, we do things when we are able to; and</p> <p>8 when we're busy with other things -- like I said, we're</p> <p>9 a small organization. So we take on things when we have</p> <p>10 capacity; and if we don't have capacity, we just don't</p> <p>11 weigh in.</p> <p>12 Q. Sure. Did LGBT Tech have a policy or have a</p> <p>13 position on Florida's law?</p> <p>14 A. No.</p> <p>15 Q. Okay. Just on Texas law?</p> <p>16 A. Just in the declaration, yes.</p> <p>17 Q. Okay. Did anyone else in your organization,</p> <p>18 in LGBT Tech, help you with this declaration?</p> <p>19 A. No.</p> <p>20 MR. DISHER: Objection, form.</p> <p>21 Go ahead.</p> <p>22 A. No. I showed it to Chris Wood before I sent</p> <p>23 it in, as the Executive Director; but the changes and</p> <p>24 kind of the form of it were mine.</p> <p>25 Q (BY MR. WALTON) Okay. Let me go ahead and</p>  | <p>14</p> <p>1 to make sure that we are looking at the same document.</p> <p>2 A. Okay.</p> <p>3 Q. Let's see. Okay. Are you able to see the</p> <p>4 PDF that's on my screen I'm sharing right now,</p> <p>5 Mr. Gutierrez?</p> <p>6 A. I am.</p> <p>7 Q. And does this appear to be the declaration</p> <p>8 that you signed for use in this NetChoice lawsuit?</p> <p>9 A. It does.</p> <p>10 Q. Okay. I'm going to go ahead and stop sharing</p> <p>11 my screen now that we've established we are all working</p> <p>12 from the same PDF document; and, Mr. Gutierrez, are you</p> <p>13 still able to see your copy of that document on your</p> <p>14 screen?</p> <p>15 A. Yeah.</p> <p>16 Q. Okay. Well, then, let's kind of go through</p> <p>17 this a little bit because, like I said, I want to spend</p> <p>18 the bulk of our time walking through your declaration</p> <p>19 today and just asking you some questions so that we make</p> <p>20 sure we understand what this is about what you're asking</p> <p>21 about and what the opinions that you hold are.</p> <p>22 A. Okay.</p> <p>23 Q. So, first, I think we've covered Paragraph 1</p> <p>24 okay. It describes your position and what LGBT Tech is.</p> <p>25 I want to jump through -- jump down to Paragraph 3.</p>                        |
| <p>1 look at the declaration itself. I believe -- it's been</p> <p>2 a while since I've done this on Zoom, but I believe the</p> <p>3 easiest way is for me to send a PDF copy of your</p> <p>4 declaration to you through the chat function and that</p> <p>5 way the court reporter has it; everybody can download</p> <p>6 the document and make sure we're looking at the same</p> <p>7 thing. And then I can share my screen as needed; or we</p> <p>8 can just walk through the document, knowing what</p> <p>9 everyone is looking at.</p> <p>10 MR. WALTON: Is that acceptable with you,</p> <p>11 Mr. Disher?</p> <p>12 MR. DISHER: Yes.</p> <p>13 MR. WALTON: Okay.</p> <p>14 Q. (BY MR. WALTON) Okay. Mr. Gutierrez, I've</p> <p>15 sent to you through the chat function a PDF that's</p> <p>16 labeled 12-5 Gutierrez Declaration. Do you see that</p> <p>17 document, sir?</p> <p>18 A. I do.</p> <p>19 Q. If you could, download and open that document;</p> <p>20 and if the court reporter could mark that as Exhibit 1</p> <p>21 to your deposition.</p> <p>22 (Exhibit 1 marked.)</p> <p>23 A. Okay. I have it in front of me.</p> <p>24 Q. (BY MR. WALTON) Okay. And I'm going to --</p> <p>25 let's see here -- I am going to share my screen simply</p> | <p>15</p> <p>1 A. Okay.</p> <p>2 Q. Yes, that's all still contained on page 1 of</p> <p>3 the first exhibit.</p> <p>4 So Paragraph 3 mentions that LGBT Tech is</p> <p>5 a national nonpartisan group of -- and I'll just</p> <p>6 summarize -- of various organizations and other</p> <p>7 companies. How many of these organizations, academics,</p> <p>8 and high technology companies are within the group of</p> <p>9 LGBT Tech?</p> <p>10 A. We are -- we partner with different</p> <p>11 organizations. So, for example, we will work with the</p> <p>12 Center for Democracy and Technology; or we will work</p> <p>13 with ITIF. So it's not a formal affiliation.</p> <p>14 Our formal affiliation is through our</p> <p>15 PowerOn Centers, and those are local organizations. So</p> <p>16 I believe that we are now -- we currently have 49</p> <p>17 PowerOn Centers, but I'm not exactly sure on that</p> <p>18 number. It's somewhere around there. I don't -- I</p> <p>19 don't do that side of the business; but, yeah, it's</p> <p>20 about 49 organizations that we're affiliated with</p> <p>21 through the PowerOn program.</p> <p>22 Q. Gotcha. And are any of those PowerOn Centers,</p> <p>23 are they social media platforms?</p> <p>24 A. No. They're all --</p> <p>25 Q. Okay.</p> <p>17</p> |

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| <p>1 A. They're all service centers for under-<br/> 2 privileged LGBT individuals. They're community centers.<br/> 3 Q. I see. And is LGBT Tech a social media<br/> 4 platform?<br/> 5 A. It is not.<br/> 6 Q. And are you an e-mail service provider?<br/> 7 A. We are not.<br/> 8 Q. Do you -- do you partner with any social media<br/> 9 platforms?<br/> 10 MR. DISHER: Objection, form.<br/> 11 A. I don't know -- I don't understand. What does<br/> 12 that mean, "partner"? Do we -- do we talk to them? Do<br/> 13 we -- I don't know what you're asking.<br/> 14 Q. (BY MR. WALTON) Sure. I'm happy to clarify.<br/> 15 I'm trying to -- so when I asked about your group and<br/> 16 what these organizations are, I thought that was a word<br/> 17 you used; if not, then forgive me. But if -- these<br/> 18 other entities and groups and organizations that you're<br/> 19 discussing policy with, partnering with, et cetera, I'm<br/> 20 just trying to get a feel for: Are any of those<br/> 21 entities e-mail service providers or social media<br/> 22 platforms themselves?<br/> 23 A. No. We do not partner with them. We do talk<br/> 24 to different organizations, but we're not partners with<br/> 25 them.</p> | <p>18 1 wanted to ask you about. It's -- I believe it's the<br/> 2 second sentence, which begins, "First, we engage with<br/> 3 critical technology and public policy leaders about<br/> 4 media, technology, and telecommunications issues of<br/> 5 specific concern to LGBTQ communities." What are those<br/> 6 issues of specific concern to LGBTQ communities?<br/> 7 A. So we have a lot of different areas that we<br/> 8 work in. So, obviously, Section 230 is the one you're<br/> 9 aware of through this deposition -- I mean, through this<br/> 10 declaration.<br/> 11 We've also spoken about encryption and<br/> 12 the importance of encryption for LGBT communities. We<br/> 13 do a lot of work around telehealth and the importance of<br/> 14 broadband for telehealth and why telehealth is important<br/> 15 for LGBT communities.<br/> 16 We are thought leaders on digital divide<br/> 17 issues, meaning, talking about why digital divide in<br/> 18 American is especially harmful for LGBT communities.<br/> 19 We talk about things as broad as XR and<br/> 20 VR environments. We've spoken out about, you know, how<br/> 21 VR worlds should be shaped so that LGBT communities are<br/> 22 included, how to make it more inclusive, the benefits of<br/> 23 VR worlds.<br/> 24 We've talked about data privacy<br/> 25 protection policies, why they're important to LGBT</p>  |
| <p>19 1 Q. Okay. And these organizations that you talk<br/> 2 to, are any of them social media platforms?<br/> 3 A. Yes.<br/> 4 Q. Which ones?<br/> 5 A. We talk to Facebook and -- is that the only<br/> 6 one? I think that may be it.<br/> 7 Q. Okay.<br/> 8 A. As a social media provider, yeah.<br/> 9 Q. Okay. And do you talk to any other<br/> 10 organizations that are e-mail service providers?<br/> 11 A. No.<br/> 12 Q. Okay. So with Facebook, have you talked to<br/> 13 Facebook about HB 20?<br/> 14 A. No, not in any more -- not in anything more<br/> 15 than letting them know we filed the declaration.<br/> 16 Q. I see. So do you know what Facebook's<br/> 17 position is regarding HB 20?<br/> 18 MR. DISHER: Objection, form.<br/> 19 A. I don't. I mean, my understanding is that<br/> 20 they are not -- I'm trying -- let me make sure I get<br/> 21 this right. They haven't expressed any reservations<br/> 22 about their work with us, but we haven't talked about<br/> 23 their position on HB 20.<br/> 24 Q. (BY MR. WALTON) Okay. When you -- when you<br/> 25 say here in Paragraph 3 -- there was a specific phrase I</p>  | <p>19 1 communities, so a lot around privacy in technology. So<br/> 2 it's a broad range of subjects.<br/> 3 Q. And can you describe why these are issues of<br/> 4 specific concern to the LGBTQ communities, as opposed to<br/> 5 just issues of concern to the public at large?<br/> 6 A. Sure. Do you want me to go, like, one by one<br/> 7 through each category and why it's important?<br/> 8 Q. Yes, that's a good question. Why don't you<br/> 9 give me a couple of examples?<br/> 10 A. So, for example, with telehealth, you know,<br/> 11 we'll talk a lot about why, you know, being able to have<br/> 12 a telehealth policy or having robust telehealth laws<br/> 13 will be good for our community because there's a lot of<br/> 14 LGBT individuals, you know, in smaller rural communities<br/> 15 that may only have access to one doctor that goes to<br/> 16 their church or sees their parents; and they may need to<br/> 17 be speaking to someone that's not local. And telehealth<br/> 18 gives our community the ability to speak to doctors that<br/> 19 are, A, going to be sympathetic to their needs; B,<br/> 20 knowledgeable about the specific issues of LGBT<br/> 21 individuals; and, C, not prejudice. So telehealth for<br/> 22 LGBT people, especially for transgender individuals who<br/> 23 may be starting a journey that doesn't -- where they<br/> 24 don't know who to reach out to, helps them in a way that<br/> 25 other communities are not.</p> |

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| <p>1        One of the other areas that we talked<br/> 2 about -- you know, we talked about, for example, VR,<br/> 3 right, virtual reality. And one of the concerns that we<br/> 4 have is kind of like we know from our research and from<br/> 5 other areas that a lot of transgender and nonbinary<br/> 6 individuals are using virtual reality environments to<br/> 7 try out new identities online so that their avatars may<br/> 8 be, you know, representing a different gender identity<br/> 9 than they present in real life. And we've talked to<br/> 10 companies about how it's important to protect, you know,<br/> 11 something like an avatar, who now becomes sensitive<br/> 12 information and sensitive data because if somebody gets<br/> 13 hold of that avatar, it may raise questions of outing<br/> 14 someone.</p> <p>15        Geolocation within a VR world is<br/> 16 important. A lot of VR worlds will post where you are<br/> 17 in that world, so it will say so-and-so is at this world<br/> 18 or that world. For someone who is going in that is not<br/> 19 out and is going into LGBT worlds within a VR world,<br/> 20 their location would also be something that's sensitive.<br/> 21 So we would be advising companies to make sure that, you<br/> 22 know, if you're going to make something public, that has<br/> 23 to be something that can be toggled by an individual so<br/> 24 that they have privacy.</p> <p>25        If we're going to talk about digital</p>                    | <p>22</p> <p>1 suggest or implement any privacy policies for Facebook<br/> 2 users?</p> <p>3        A. Well, I'm under an NDA with Facebook. So I<br/> 4 don't think I can talk about the specific work that I do<br/> 5 with them.</p> <p>6        Q. Okay. What about Section 230? You said that<br/> 7 those were -- that was one of the areas where LGBT Tech<br/> 8 works, you know, on policy issues. What are some of the<br/> 9 policy concerns connected with Section 230 that are<br/> 10 unique to or special to the LGBT community?</p> <p>11        A. Well, I mean, you know, I -- I am a lawyer,<br/> 12 you know, a recovering lawyer; but one of the things<br/> 13 that has always struck me as I went through law school<br/> 14 was just kind of the importance of Section 230 for<br/> 15 marginalized communities, like the LGBT community, and<br/> 16 how Section 230 really was one of the foundational<br/> 17 steppingstones for LGBT communities to go online and<br/> 18 feel heard and seen in a way that they hadn't before.</p> <p>19        So the protections of Section 230 is what<br/> 20 allowed a lot of LGBT communities to flourish online,<br/> 21 including transgender communities. YouTube, for<br/> 22 example, was one of the first places where transgender<br/> 23 individuals felt free to go online and kind of do makeup<br/> 24 tutorial videos or talk about transition or the<br/> 25 medicines they were taking.</p> |
| <p>1 divide issues, again, LGBT individuals are one of the<br/> 2 few minorities that are discriminated against or can be<br/> 3 discriminated against in their own home. So most other<br/> 4 people can go home and kind of find a safe space to kind<br/> 5 of, you know, explore or to ask questions about their<br/> 6 identity or why they're being discriminated against.<br/> 7 LGBT individuals may be facing discrimination at home;<br/> 8 and, therefore, we turn to social media and these<br/> 9 platforms at a younger age, earlier, and with more kind<br/> 10 of, you know, more stickiness than other communities for<br/> 11 community building, for finding information, for<br/> 12 exploring identity.</p> <p>13        So all of these are not issues that are<br/> 14 not -- that are only affecting the LGBT community, but<br/> 15 there are specific impacts because of the dangers of<br/> 16 outing and other privacy reasons why it's important to<br/> 17 have our voice heard when policies are being made about<br/> 18 how data's going to be handled, how privacy's going to<br/> 19 be handled, how money's going to be dispersed, you know,<br/> 20 to different organizations. All of that is -- you know,<br/> 21 all we do is talk about technology that's happening now<br/> 22 and specific concerns that may be sensitivities for the<br/> 23 LGBT community.</p> <p>24        Q. As far as -- I know you mentioned earlier<br/> 25 Facebook. Have you worked with Facebook to either</p> | <p>23</p> <p>25</p> <p>1        So Section 230 allowed social media<br/> 2 companies and others to give a platform to our voices,<br/> 3 and so I'm already leery of any kind of suggestions from<br/> 4 the left or the right of getting rid of 230 or changing<br/> 5 it because my concern is that the changes that are being<br/> 6 proposed will have a harmful impact on our community<br/> 7 either way.</p> <p>8        Q. So I take it then that you're in favor of<br/> 9 Section 230?</p> <p>10        MR. DISHER: Objection, form.</p> <p>11        A. I am indeed a -- I am a -- yes. I think 230<br/> 12 is -- has been a crucial law for the flourishing of<br/> 13 marginalized communities online.</p> <p>14        Q (BY MR. WALTON) Sure. And I know we're here<br/> 15 today to talk and HB 20; but since you mentioned<br/> 16 Section 230, if you had the opportunity to rewrite<br/> 17 Section 230, would you add anything or change anything<br/> 18 to it or do you like it as written?</p> <p>19        A. I think --</p> <p>20        MR. DISHER: Hold on. Hold on. Hold on.<br/> 21 Objection, form.</p> <p>22        THE WITNESS: Can I answer?</p> <p>23        MR. DISHER: Yes, go ahead.</p> <p>24        A. I think that the changes that I have seen from<br/> 25 both sides are troublesome and bring a whole bunch of</p>   |

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| <p>1 new issues, so I would advocate for Section 230 to stay<br/> 2 as it is.</p> <p>3 Q (BY MR. WALTON) Okay. I think we've pretty<br/> 4 much covered what I wanted to through Paragraph 4.</p> <p>5 So let me skip to Paragraph 5 of your<br/> 6 declaration. We're now on page -- well, I guess it's<br/> 7 page 3 of the PDF. Are you able to see Paragraph 5 of<br/> 8 your declaration, sir?</p> <p>9 A. Yes.</p> <p>10 Q. Okay. You say here in the first bullet point<br/> 11 that there are high numbers of LGBT youth who use the<br/> 12 internet to search for health information. When you say<br/> 13 "high numbers," what does that mean?</p> <p>14 A. I believe that's in one of the exhibits that<br/> 15 we provided, the research that we did on LGBT youth<br/> 16 online; and I'll have to look back at that because I<br/> 17 actually didn't re-review that. But what that means is<br/> 18 that our research shows that when compared to cisgender<br/> 19 or heterosexual people, LGBT individuals tend to go<br/> 20 online at an earlier age and use online communities at a<br/> 21 higher percentage than their counterparts in the<br/> 22 hetero/cis community.</p> <p>23 Q. So when you say that they're searching for<br/> 24 health information, I guess, how broad was the scope of<br/> 25 that phrase "health information" in your research?</p> | <p>26</p> <p>1 information.</p> <p>2 Q. Okay. And I apologize for my pauses here.</p> <p>3 I'm simply trying to streamline things to where we<br/> 4 don't -- hopefully we don't waste our time with<br/> 5 unnecessary questions here.</p> <p>6 I want to jump down to Paragraph 6, and I<br/> 7 believe that's on the next page. So it would be page 4<br/> 8 of the PDF file. Do you see Paragraph 6?</p> <p>9 A. I do.</p> <p>10 Q. The first bullet point there uses the phrase<br/> 11 "adequate privacy controls."</p> <p>12 A. Uh-huh.</p> <p>13 Q. What are "adequate privacy controls"?</p> <p>14 MR. DISHER: Objection, form.</p> <p>15 Go ahead and answer.</p> <p>16 A. I mean, I think as part of kind of the civil<br/> 17 rights community, this is an ongoing discussion, an<br/> 18 ongoing discussion with social media companies. I think<br/> 19 for us, when we talk about adequate privacy controls, it<br/> 20 talks -- it means mainly user control over a lot of the<br/> 21 information that goes out and being able to kind of<br/> 22 protect that information. So when -- when we talk about<br/> 23 adequate privacy controls, we advocate generally for<br/> 24 more user control over what data is being used and what<br/> 25 data they release.</p>  | <p>28</p> |
| <p>27</p> <p>1 A. I think it was that phrase, like, they would<br/> 2 search for "health information" online; and, again, I'll<br/> 3 have to look at the research again. I did not review<br/> 4 that for this deposition. So all my answers are from<br/> 5 memory from going way back.</p> <p>6 Q. Sure. That's fine, and I certainly don't want<br/> 7 you to --</p> <p>8 (Simultaneous speakers.)</p> <p>9 A. Broad questions. They were broad questions<br/> 10 about --</p> <p>11 Q. Okay.</p> <p>12 A. -- attitudes and usage of the internet for<br/> 13 LGBT individuals.</p> <p>14 Q. When they search the internet for this<br/> 15 information, how much of that -- how much of that is<br/> 16 done through social media platforms versus just, you<br/> 17 know, internet search engines?</p> <p>18 MR. DISHER: Objection, form.</p> <p>19 Go ahead.</p> <p>20 A. I don't know. That's not a question we asked<br/> 21 in the research. We didn't split it out like that.</p> <p>22 Q (BY MR. WALTON) Okay.</p> <p>23 A. Our attitudes were not -- the research was<br/> 24 about online usage, not social media usage. So we<br/> 25 didn't differentiate between how they came to the</p>   | <p>27</p> <p>1 Q. (BY MR. WALTON) So in this -- this may be<br/> 2 something that you probably know a lot more about than I<br/> 3 do; but when it comes to -- so the next bullet point<br/> 4 there is going to say "adequate content moderation<br/> 5 policies."</p> <p>6 A. Right.</p> <p>7 Q. What's the difference between a privacy<br/> 8 control and a content moderation policy?</p> <p>9 A. So a privacy control would be, for example, if<br/> 10 I list my status as married or if I list my sexual<br/> 11 orientation as gay on a social media site, that I have a<br/> 12 toggle that allows that to be private and not be seen by<br/> 13 other people. So that would be a privacy control in<br/> 14 terms of keeping the data that I have on my social media<br/> 15 profiles private.</p> <p>16 Moderation policy goes to kind of the<br/> 17 interactions online and kind of what is allowed to be on<br/> 18 the service that I'm on. So a content moderation policy<br/> 19 would be something that screens out the word "queer" or<br/> 20 "dyke" or anything like that in a hate-speech content<br/> 21 for our -- you know, for me, so that I don't have to<br/> 22 come across that.</p> <p>23 Q. How -- well, let me ask it this way: With<br/> 24 the concerns that LGBT Tech has regarding HB 20, do<br/> 25 those concerns arise in the context of privacy controls?</p> | <p>29</p> |

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|  | <p>1 MR. DISHER: Objection, form.</p> <p>2 A. It arises more in the content moderation</p> <p>3 policies and the ability under HB 20 for anyone to kind</p> <p>4 of put any speech online without, you know -- if it's</p> <p>5 not illegal, it's allowed on; and that's a very high</p> <p>6 standard that has never been helpful for marginalized</p> <p>7 communities, like LGBT.</p> <p>8 Q. (BY MR. WALTON) Okay. Okay. I just wanted</p> <p>9 to make sure I wasn't missing something, if you saw a</p> <p>10 concern with HB 20 and privacy controls.</p> <p>11 MR. DISHER: Objection --</p> <p>12 A. I --</p> <p>13 MR. DISHER: Hold on. Hold on.</p> <p>14 Objection, form.</p> <p>15 THE WITNESS: Sorry.</p> <p>16 A. No. You know, we're a small organization; and</p> <p>17 where we're most impactful is picking an issue and</p> <p>18 sticking to that issue. And the issue that we picked is</p> <p>19 this because there's a lot of organizations that are</p> <p>20 doing work that can speak very eloquently about a lot of</p> <p>21 the other parts of the bill; but we felt that our best</p> <p>22 and most impactful work would be to highlight the</p> <p>23 dangers for LGBT communities from removing content</p> <p>24 moderation policies or changing them in a way that our</p> <p>25 community might be affected. So we were very focused.</p>   |
|  | <p>30</p> <p>1 only that as we continue these conversations, that they</p> <p>2 become better at protecting LGBT communities; but I</p> <p>3 don't have an answer as to what a adequate content</p> <p>4 moderation policy would look like, you know, in its</p> <p>5 final form.</p> <p>6 Q. (BY MR. WALTON) Okay. The content moderation</p> <p>7 policies that you've seen in place currently today, how</p> <p>8 adequate do you think the industry is right now with</p> <p>9 their content moderation policies at protecting against</p> <p>10 homophobia, bullying, and these other things that you've</p> <p>11 mentioned?</p> <p>12 MR. DISHER: Objection, form.</p> <p>13 A. I think they can -- I think they can be</p> <p>14 better. I think there can be more attention paid to the</p> <p>15 content that's being put out there; but, generally, I</p> <p>16 think that the companies are doing a good job of keeping</p> <p>17 the most -- the worst of the worst off social media.</p> <p>18 And in conversations with companies, it does seem like</p> <p>19 they are taking the steps to kind of include LGBT</p> <p>20 communities in their policies moving forward.</p> <p>21 Q. (BY MR. WALTON) I want to go to Paragraph 7</p> <p>22 now. Let's see. The third line from the bottom, the</p> <p>23 last full sentence says, "We are greatly concerned that</p> <p>24 this law will make the internet, including the very</p> <p>25 services and platforms LGBTQ individuals use daily,</p> <p>31</p> <p>1 Again, resources-wise we just don't have</p> <p>2 the ability to tackle every issue; but we pick where we</p> <p>3 think we would be most impactful and our kind of --</p> <p>4 here, our discussion is about moderation policies and</p> <p>5 their importance for our community.</p> <p>6 Q. (BY MR. WALTON) Okay. So then in that second</p> <p>7 bullet point, let's go ahead and move into that. It</p> <p>8 says, "Without adequate content moderation policies,</p> <p>9 digital forums and apps can become breeding grounds for</p> <p>10 homophobia, bullying (cyber and otherwise), harassment,</p> <p>11 and misinformation." So what content moderation</p> <p>12 policies would be adequate?</p> <p>13 MR. DISHER: Objection, form.</p> <p>14 A. I mean, there's no one answer for this. It's</p> <p>15 an ongoing discussion with social media companies. I</p> <p>16 think this is kind of the holy grail of the</p> <p>17 conversation; and I think that the problem is that as</p> <p>18 you try to address one thing, other things have, you</p> <p>19 know, different priorities.</p> <p>20 I think we are talking to companies to</p> <p>21 continue evolving in terms of their policies. We talk</p> <p>22 to them to make sure that LGBT people are being</p> <p>23 protected under the policies, but we don't have an</p> <p>24 answer as to what final adequate content moderation</p> <p>25 policy would be. It's incremental. And our hope is</p> <p>33</p> <p>1 unsafe to such an extent that LGBTQ communities will</p> <p>2 lose valuable -- indeed, sometimes life-saving --</p> <p>3 information and services." What are the valuable</p> <p>4 information and services that you're referring to here?</p> <p>5 A. I mean, part of this is, obviously, health</p> <p>6 information. We talk further down in the declaration</p> <p>7 about a good example, which is conversion therapy; and</p> <p>8 we are very concerned that if there is no censoring of</p> <p>9 content or if platforms are not allowed to kind of block</p> <p>10 misinformation about conversion therapy, for example, as</p> <p>11 a health alternative for individuals that are struggling</p> <p>12 with their sexuality, that forums that talk about, you</p> <p>13 know, how to be a, you know, stable, psychologically</p> <p>14 happy LGBT person will be flooded with content that's</p> <p>15 seeking to convert them or in other ways kind of change</p> <p>16 their mind, without any recourse.</p> <p>17 Q. So -- and I promise I'm not trying to be</p> <p>18 difficult -- it sounds there like, with that example you</p> <p>19 used, which we can talk about in a few minutes, of</p> <p>20 conversion therapy, that's wanting to sort of, you know,</p> <p>21 block out what you're saying is bad information.</p> <p>22 I guess my question was more: What is</p> <p>23 the good information, the valuable information and</p> <p>24 services, that LGBT communities would lose access to if</p> <p>25 HB 20 went into effect?</p> |

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| <p>1 MR. DISHER: Objection, form.</p> <p>2 A. I mean, it's more of, you know, the harassment</p> <p>3 that can come to LGBT websites would become so</p> <p>4 incremental that it would be hard to kind of conduct</p> <p>5 business on a lot of these platforms.</p> <p>6 We have seen a very noticeable uptick in</p> <p>7 anti-transgender attacks since a lot of the bills have</p> <p>8 been introduced, about, I don't know, transgender</p> <p>9 athlete bans in states. There's been a lot of</p> <p>10 misinformation posted about transgender individuals.</p> <p>11 There's been a lot of bad naming, calling them by their</p> <p>12 previous name. There's been a lot of misinformation</p> <p>13 about what transgender individuals can or cannot do once</p> <p>14 they transition to another gender.</p> <p>15 And I feel that there's a lot of</p> <p>16 resources and a lot of websites out there that are</p> <p>17 trying to combat a lot of misconceptions that would be</p> <p>18 drowned out in hate speech and harassment without a</p> <p>19 platform being able to filter that out or block that</p> <p>20 speech.</p> <p>21 So there's, you know -- even our website,</p> <p>22 you know, on Twitter, we will get, you know, hate mail</p> <p>23 for stuff that we -- that we print. So the issue is</p> <p>24 that a lot of the platforms that we use daily, like,</p> <p>25 Twitter and everyone else, if we are -- if this is</p> | <p>34</p> <p>1 can be life-saving?</p> <p>2 A. So, for example, when we talk about conversion</p> <p>3 therapy, there are online resources for people who have</p> <p>4 gone through conversion therapy, who have survived it;</p> <p>5 people who were advocates of conversion therapy who</p> <p>6 have now, you know, gone and come out anti-conversion</p> <p>7 therapy. So these resources are people who are going</p> <p>8 through this or who -- whose parents may be forcing them</p> <p>9 into conversion therapy will become a lot less useful if</p> <p>10 they're not, you know, controlled and moderated; and</p> <p>11 those could be life-saving. People who are going</p> <p>12 through conversion therapy are trans individuals who are</p> <p>13 seeking support online for their identity who are going</p> <p>14 to be drowned in anti-trans speech. Those resources</p> <p>15 would be jeopardized if there is no content moderation</p> <p>16 of such speech.</p> <p>17 Q. Okay. Flipping down to Paragraph 8 here,</p> <p>18 which spans the bottom of page 4 and the top of page 5,</p> <p>19 if we're going by just the PDF pagination here, are you</p> <p>20 able to see Paragraph 8 of your declaration?</p> <p>21 A. I am.</p> <p>22 Q. It says here -- and I won't read the whole</p> <p>23 sentence -- but the first sentence uses the phrase "will</p> <p>24 inflict unique harms on LGBTQ communities and</p> <p>25 individuals." It's my understanding that your</p> |
| <p>35</p> <p>1 allowed to come into play, the sheer amount of</p> <p>2 harassment and bullying will drive a lot of people off</p> <p>3 these platforms.</p> <p>4 Q. (BY MR. WALTON) And, I guess, is that based</p> <p>5 on -- is that based on studies that you've done?</p> <p>6 A. No, it's not.</p> <p>7 Q. Okay. When you say that -- I mean, to a</p> <p>8 certain extent, I -- when you say that bullying or</p> <p>9 harassment can drive people off of platforms, are there</p> <p>10 any studies that you're aware of that have been done to</p> <p>11 show how that happens, what the numbers -- what the</p> <p>12 statistics are for how that might happen?</p> <p>13 A. I've seen studies on transgender individuals</p> <p>14 and their rights and transgender bullying. I mean, I</p> <p>15 can certainly pull up a link at some point, but I've</p> <p>16 definitely seen work by other civil rights organizations</p> <p>17 around this issue and hate speech in LGBT communities.</p> <p>18 So, yeah, there's definitely research out there to this</p> <p>19 end. I don't have it in front of me, and I didn't</p> <p>20 review it before this deposition.</p> <p>21 Q. Okay. You didn't review those studies for the</p> <p>22 purposes of this declaration, then?</p> <p>23 A. No.</p> <p>24 Q. Okay. What specifically do you mean here when</p> <p>25 you say that sometimes these information and services</p>                         | <p>37</p> <p>1 declaration is saying here that HB 20 would impose</p> <p>2 unique harms on LGBTQ people. What are the unique harms</p> <p>3 that it would pose?</p> <p>4 A. A --</p> <p>5 MR. DISHER: Objection, for -- hold on.</p> <p>6 Objection, form.</p> <p>7 Go ahead and answer.</p> <p>8 Q. (BY MR. WALTON) And if I've misstated or</p> <p>9 mischaracterized your testimony here, I welcome your</p> <p>10 feedback and clarification.</p> <p>11 A. Can you state what you asked again because I</p> <p>12 want to make sure that I got -- that I do get it right?</p> <p>13 Q. Sure. I'm just wondering: What are the</p> <p>14 unique harms that that first sentence in Paragraph 8 is</p> <p>15 referring to?</p> <p>16 A. Okay. So -- and this is supported by</p> <p>17 research -- you know, LGBT individuals face online</p> <p>18 harassment at a much higher percent- -- I think,</p> <p>19 actually, this in the declaration down below. The</p> <p>20 percentages are below, in the paragraph down below, that</p> <p>21 we face online harassment at a higher rate. Anti-gay</p> <p>22 slurs are used not only against LGBT individuals but</p> <p>23 against heterosexual individuals as a slur. So when --</p> <p>24 if you're opening the floodgates to "any speech is</p> <p>25 allowed," marginalized communities, like the LGBT</p>  |

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| <p>1 community, are going to become the bigger targets of<br/> 2 that hate speech and that awful speech than other<br/> 3 communities.</p> <p>4 So we are, again, talking about the trans<br/> 5 ban on sports and gender-transforming surgery for teens.<br/> 6 Once those conversations come up, the amount of hate<br/> 7 speech that comes into these conversations is<br/> 8 significant; and if that is allowed without any kind of<br/> 9 restriction, it will have a unique and dangerous impact<br/> 10 in LGBTQ communities, especially for marginalized<br/> 11 individuals who are already being discriminated against<br/> 12 in their real lives and may be looking online for<br/> 13 support and resources.</p> <p>14 So the impact on LGBT communities of such<br/> 15 a law will be greater, as it will be for all<br/> 16 marginalized communities that are dealing with hate<br/> 17 speech, you know, with an influx of hate speech as it<br/> 18 is, with content moderation.</p> <p>19 Q. With this hate speech against LGBTQ<br/> 20 communities, have you done any studies or research to<br/> 21 determine how much of that hate speech is religiously<br/> 22 motivated versus how much of it is not religiously<br/> 23 motivated?</p> <p>24 MR. DISHER: Objection, form.</p> <p>25 A. No.</p>   | <p>38</p> <p>1 how would you advocate for a content moderation policy<br/> 2 to deal with those nuances or differences?<br/> 3 MR. DISHER: Objection, form.<br/> 4 A. I can't answer that. I haven't thought<br/> 5 through it that deeply to that specific issue, so I<br/> 6 don't have an answer for that.</p> <p>7 Q (BY MR. WALTON) Okay. That's fine.<br/> 8 Well, I guess let's jump over to<br/> 9 Paragraph 9. Now, we're fully on page 5 of this PDF.<br/> 10 And this is what you mentioned earlier about your<br/> 11 example of conversion therapy.</p> <p>12 I guess just to pick up where I just left<br/> 13 off with that last question -- well, let me just ask it<br/> 14 this way: Do you believe that all information about<br/> 15 conversion therapy should be removed from social media<br/> 16 platforms?</p> <p>17 MR. DISHER: Objection, form.<br/> 18 A. All information supporting conversion therapy?<br/> 19 Q (BY MR. WALTON) That's a good clarification.<br/> 20 Okay. So, yeah, all information that would support<br/> 21 conversion therapy or any advocacy in favor of<br/> 22 conversion therapy, do you believe that that should be<br/> 23 removed from social media platforms?<br/> 24 MR. DISHER: Objection, form.<br/> 25 A. I don't -- I can't say that I would make that</p>  |
| <p>1 Q. (BY MR. WALTON) Are you aware of either hate<br/> 2 speech or slurs against any part of the LGBTQ community<br/> 3 that is religiously motivated?</p> <p>4 MR. DISHER: Objection, form.</p> <p>5 A. Yes.</p> <p>6 Q (BY MR. WALTON) How does LGBT Tech -- or, I<br/> 7 guess, what is the policy on how to deal with hate<br/> 8 speech that would be religiously motivated? Should that<br/> 9 speech be allowed because it's religiously motivated, or<br/> 10 should it be not allowed or censored or removed because<br/> 11 it's hate speech? How do y'all deal with that tension<br/> 12 there?</p> <p>13 MR. DISHER: Objection, form.</p> <p>14 A. It's -- it's just that for our perspective,<br/> 15 that's just too much of a blanket statement. I mean, it<br/> 16 depends on the speech. Somebody saying, you know, "My<br/> 17 child's gay, and he won't be saved" is very different<br/> 18 than saying, "All fags should go to hell and burn in<br/> 19 hell." Both are religiously motivated, but they would<br/> 20 be treated differently. So it's not -- as a broad<br/> 21 category, I can't answer how religious speech on LGBT<br/> 22 would be treated because it's a much more nuanced<br/> 23 question than that.</p> <p>24 Q (BY MR. WALTON) Okay. As far as the content<br/> 25 moderation policies that your group would advocate for,</p> | <p>39</p> <p>1 a hundred percent blanket statement. I -- there's just<br/> 2 a lot of difference in areas that I'm not aware of or,<br/> 3 you know, there are a lot of things that could be very<br/> 4 innocuous or innocent that -- so I can't answer that<br/> 5 question "yes" or "no."</p> <p>6 Q. (BY MR. WALTON) Okay. Then, you know, in --<br/> 7 in your perfect world, what would the content moderation<br/> 8 policy look like as applied to posts about conversion<br/> 9 therapy?</p> <p>10 MR. DISHER: Objection, form.</p> <p>11 A. I think that, you know, one of the areas I<br/> 12 would be very concerned about and focus on would be<br/> 13 misinformation, medical misinformation, or treating it<br/> 14 as medical information. So, in a perfect world, any<br/> 15 conversion therapy posts or information that purports to<br/> 16 paint it as a valid medical or psychological procedure<br/> 17 should at least be restricted, if not banned.</p> <p>18 Q. (BY MR. WALTON) And when you say<br/> 19 "restricted," what do you mean by that?</p> <p>20 A. Meaning, you know, moderated or allowed in<br/> 21 certain groups that are created for that purpose versus<br/> 22 generally being able to be anywhere on the internet.</p> <p>23 Q. I see. Are you aware -- and I even hate to<br/> 24 ask this question because I'm not a social media guru --<br/> 25 but are you aware that on some social media platforms</p> |

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| <p>1 that some information, some posts, could be removed<br/> 2 completely or some information or posts could be set<br/> 3 such that not as many people might see and then some<br/> 4 information or posts might just be flagged with an<br/> 5 information, whether it's, you know, "This has been fact<br/> 6 checked," or whatever, generally -- that's not the term<br/> 7 of art; and I don't want to put words in your mouth.<br/> 8 But when I start talking about examples like that, do<br/> 9 you know what I'm referring to?</p> <p>10 MR. DISHER: Objection, form.</p> <p>11 A. Yeah, like, shadow banning kind of techniques,<br/> 12 yeah, so where something can be devalued in an algorithm<br/> 13 because it's not seen as valuable information, it's<br/> 14 junky, or it's not verified. So, yeah, that's one --</p> <p>15 Q. (BY MR. WALTON) Okay.</p> <p>16 A. -- of the policies I think you're talking<br/> 17 about.</p> <p>18 Q. Sure. And, you know, where -- I guess, among<br/> 19 those different types of options, what would you see the<br/> 20 best way is to deal with information advocating<br/> 21 conversion therapy?</p> <p>22 MR. DISHER: Objection, form.</p> <p>23 A. The answer is: I don't know. I've had a lot<br/> 24 of conversations with a lot of civil rights societies;<br/> 25 and I'm sure as you work through this, you'll see that</p>   | <p>42</p> <p>1 categories of that could be sliced so thinly in so many<br/> 2 ways that it -- you know, it's not a yes-or-no question,<br/> 3 in my mind.</p> <p>4 Q. (BY MR. WALTON) Okay. In Paragraph 9, while<br/> 5 we're still on it, you use the word "dangerous." Are<br/> 6 there -- are there any other types of information other<br/> 7 than conversion therapy that you believe are dangerous?</p> <p>8 A. I gave --</p> <p>9 (Simultaneous speakers.)</p> <p>10 MR. DISHER: Hold on.</p> <p>11 Objection, form.</p> <p>12 Go ahead.</p> <p>13 A. I gave you examples of other areas, without<br/> 14 being totally exhaustive, obviously; but transgender<br/> 15 content, you know, as we talk about transgender teens,<br/> 16 who are starting to talk about transitioning, there's<br/> 17 dangerous misinformation out there about what that<br/> 18 entails and definitely the wrong medical information<br/> 19 about the effects of transgender hormone therapies and<br/> 20 everything else. So for transgender individuals,<br/> 21 definitely, you know, there's a whole area where when<br/> 22 they're exploring transitioning, there's a lot of<br/> 23 dangerous misinformation out there for them as an<br/> 24 example.</p> <p>25 Q. (BY MR. WALTON) Sure. So how do you -- if a</p>   |
| <p>43</p> <p>1 there's as many opinions on what the adequate remedy is<br/> 2 as there are people, you know, giving you the remedy.<br/> 3 So I don't know what the answer is.</p> <p>4 You know, we -- we are -- like I said,<br/> 5 we're a three-person organization. So we are focused on<br/> 6 raising issues that are important to us, but we are not<br/> 7 getting into the weeds on a lot of these issues in kind<br/> 8 of the granular detail that we're talking about here.<br/> 9 So it's not something that I've thought about in the<br/> 10 sense of developing policy of what should be done, you<br/> 11 know. We're raising the alarm as to, you know,<br/> 12 unintended consequences of changes to a law that we feel<br/> 13 has protected the LGBT community.</p> <p>14 Q. (BY MR. WALTON) Gotcha. With regard to<br/> 15 information that promotes or advocates for conversion<br/> 16 therapy, do you think it would be sufficient for social<br/> 17 media platforms to just put a flag or put a note on all<br/> 18 of those posts that say, "Hey, this is medical<br/> 19 misinformation"; or do you think something more needs to<br/> 20 be done?</p> <p>21 MR. DISHER: Objection, form.</p> <p>22 A. Again, I don't know without looking at a<br/> 23 specific post and what -- the details on how it's<br/> 24 addressed and what information's in it. I think that --<br/> 25 I couldn't answer that question just broadly because the</p> | <p>45</p> <p>1 social media platform wanted to moderate content that<br/> 2 was dangerous, what sort of guidelines do they go by in<br/> 3 determining what's dangerous and what's not?</p> <p>4 MR. DISHER: Objection, form.</p> <p>5 A. I don't know what guidelines they go by. I<br/> 6 haven't talked to social media companies specifically<br/> 7 about what specific guidelines they have, and they<br/> 8 wouldn't -- they wouldn't tell me even if I asked.</p> <p>9 Q. (BY MR. WALTON) Sure. What would you<br/> 10 recommend to them if they asked your opinion?</p> <p>11 MR. DISHER: Objection, form.</p> <p>12 A. When it comes to this type of content, I think<br/> 13 that -- I find it hard to answer these questions because<br/> 14 you're asking kind of a general statement on a category<br/> 15 without kind of -- me thinking about kind of all the<br/> 16 different levels of content that could be there.</p> <p>17 And I think when you ask me, like, what<br/> 18 a general policy would look like ideally, this is the<br/> 19 problem that we run into in talking about it -- and<br/> 20 it's going to be the same problem we have in our<br/> 21 conversation -- is that I don't know exactly what it is<br/> 22 because there are different levels of content and there<br/> 23 are -- there is something that's very simple as saying,<br/> 24 you know, "I" -- you know, "I don't believe kids should<br/> 25 have any kind of hormone therapy" versus, you know, much</p> |

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| <p>1 more dangerous information about hormone therapy being<br/> 2 really bad for an individual and unhealthy. So medical<br/> 3 information like that is very different than somebody's<br/> 4 opinion.</p> <p>5 So if we talk about this, I don't know<br/> 6 what I would advise because there's just 8 million ways<br/> 7 to slice this issue. So I don't want to give you an<br/> 8 incomplete answer.</p> <p>9 Q. Sure. No, I appreciate that.</p> <p>10 MR. WALTON: We've been going close to an<br/> 11 hour here. Todd, do you mind if we take a brief break?</p> <p>12 MR. DISHER: Yes, that's fine.</p> <p>13 MR. WALTON: Okay. Maybe -- maybe ten<br/> 14 minutes or so and then regroup?</p> <p>15 MR. DISHER: Sounds good. So let's just<br/> 16 say 9:10 Eastern, 8:10 Central.</p> <p>17 MR. WALTON: I guess that would be 9:10<br/> 18 Central.</p> <p>19 MR. DISHER: Oh, you're right. My laptop<br/> 20 is still on Central time.</p> <p>21 MR. WALTON: Oh, okay. All right.</p> <p>22 MR. DISHER: 9:10 Centr --<br/> 23 (Simultaneous speakers.)</p> <p>24 MR. DISHER: So 10:10 on my cell phone,<br/> 25 9:10 on my laptop.</p> | <p>46</p> <p>1 MR. DISHER: Objection, form.<br/> 2 A. So you're saying that literally it's just<br/> 3 anti-trans and homophobic content?<br/> 4 Q. (BY MR. WALTON) Yes.<br/> 5 A. Under current Section 230 that would be<br/> 6 protected, and I am a proponent of Section 230<br/> 7 protection. So that website could be in its own space<br/> 8 with its own people. It can regulate however it wants<br/> 9 its own content.</p> <p>10 Q. And I think we touched on this earlier; but in<br/> 11 content moderation, how do -- how do you distinguish<br/> 12 between hate speech that is religiously based and hate<br/> 13 speech that's not religiously based?</p> <p>14 MR. DISHER: Objection, form.</p> <p>15 A. I don't. I've never made that distinction.</p> <p>16 Q. (BY MR. WALTON) So if there was -- if there<br/> 17 was hate speech that was religiously motivated, how<br/> 18 should it be dealt with?</p> <p>19 MR. DISHER: Objection, form.</p> <p>20 A. Again, it's too broad of a category, you know.<br/> 21 It's about what the specific speech is. And, you know,<br/> 22 I think it's more about what the speech is rather than<br/> 23 what the viewpoint of the person making the speech is,<br/> 24 which is why we haven't gotten into kind of dissecting<br/> 25 between religious hate speech and other types of hate</p> |
| <p>1 THE WITNESS: There you go.<br/> 2 MR. WALTON: That's right.<br/> 3 MR. DISHER: Okay.<br/> 4 THE WITNESS: All right. See you back in<br/> 5 ten.<br/> 6 MR. WALTON: Are we off the record,<br/> 7 Debbie?<br/> 8 THE REPORTER: We're going off the record<br/> 9 at 9:00 a.m.<br/> 10 (Off the record from 9:00 to 9:14 a.m.)<br/> 11 THE REPORTER: We're going back on the<br/> 12 record at 9:14 a.m.<br/> 13 Q. (BY MR. WALTON) Mr. Gutierrez, we are back<br/> 14 after a brief break. Are you ready to proceed with your<br/> 15 deposition?<br/> 16 A. I am.<br/> 17 Q. Let's go to Paragraph 10 of your declaration,<br/> 18 and we're at the bottom of the fifth page here in the<br/> 19 PDF file, still with Exhibit 1. Do you see<br/> 20 Paragraph 10, sir?<br/> 21 A. I do.<br/> 22 Q. What if -- what if there was a social media<br/> 23 platform that was simply devoted to this sort of hate<br/> 24 speech that you describe here? Should that platform be<br/> 25 subject to regulation?</p>   | <p>47</p> <p>1 speech.</p> <p>2 Q. (BY MR. WALTON) I gotcha. Well, let's just<br/> 3 take your first bullet point here in your Paragraph 10.<br/> 4 Let's say that there were some people who said that it<br/> 5 was their religious belief that transgender individuals<br/> 6 were mentally ill. Should that speech be permitted, or<br/> 7 should it be censored?</p> <p>8 MR. DISHER: Objection, form.</p> <p>9 You can answer if you can.</p> <p>10 THE WITNESS: I am. I'm thinking about<br/> 11 how to answer this.</p> <p>12 MR. DISHER: Okay. I just wanted to<br/> 13 clarify.</p> <p>14 THE WITNESS: Yeah.</p> <p>15 A. No, I'm answering -- yeah, I'm going to answer<br/> 16 the same way. It's very hard for me to make a blanket<br/> 17 answer about speech and say any content is -- you know,<br/> 18 there's definitely degrees of what this means. There's<br/> 19 definitely degrees of how it's said, the aggressiveness<br/> 20 of it, kind of. I don't feel comfortable kind of making<br/> 21 a blanket statement that any type of speech as a general<br/> 22 category should be on or off a platform.</p> <p>23 Q. (BY MR. WALTON) I gotcha. And would that<br/> 24 apply then, to these types of speech that you've listed<br/> 25 for us in Paragraph 10?</p>   |

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| <p>1 A. Yeah.</p> <p>2 MR. DISHER: Objection, form.</p> <p>3 Go ahead.</p> <p>4 A. Yes.</p> <p>5 Q. (BY MR. WALTON) Okay.</p> <p>6 A. It's -- you know, it's obscenity all over</p> <p>7 again, you know, when you see a kind of question. So</p> <p>8 it's hard to say this is hate speech or this isn't hate</p> <p>9 speech and go into categories that way. There are a lot</p> <p>10 of people who may feel things about transgender</p> <p>11 individuals that are not correct that don't rise to the</p> <p>12 level of hate speech; and whether it's religiously</p> <p>13 motivated or not, it's not really what we look at.</p> <p>14 And, also, just kind of saying whether --</p> <p>15 you know, as a statement in general whether it should be</p> <p>16 banned or not, again, it's not something I feel</p> <p>17 comfortable, you know, saying "yes" or "no" to because</p> <p>18 it's a very broad category; and there's a lot of nuances</p> <p>19 that could come into play here.</p> <p>20 Q. Let's move down to Paragraph 11, and this is</p> <p>21 the -- page 6 of the PDF file, still in Exhibit 1. Do</p> <p>22 you see Paragraph 11?</p> <p>23 A. I do.</p> <p>24 Q. The statistic that you cite here, "68 percent</p> <p>25 of LGBTQ adults have encountered online hate and</p>                              | <p>50</p> <p>1 you mean by that?</p> <p>2 A. It means that we have now gotten to a place</p> <p>3 on social media sites where there is kind of a sense</p> <p>4 of protection and culture and acceptance for LGBT</p> <p>5 individuals that was not possible before the advent of</p> <p>6 the internet, and allowing these places to be invaded by</p> <p>7 hate speech without any kind of restriction would bring</p> <p>8 us back to the place of constant harassment by</p> <p>9 individuals who are anti-LGBT. That's what we meant by</p> <p>10 that sentence.</p> <p>11 Q. Going to Paragraph 13 -- and I know it starts</p> <p>12 at the bottom of page 6; it continues to the top of</p> <p>13 page 7 -- and I want to ask you about something that</p> <p>14 actually appears at the top of page 7. The first full</p> <p>15 sentence that begins from the top of that page, it says,</p> <p>16 "Put simply, few users -- gay, straight, trans; white,</p> <p>17 black, brown; young or old -- want to scroll through</p> <p>18 hateful content and messages." Do you have any specific</p> <p>19 data or research that goes behind that assertion?</p> <p>20 A. No.</p> <p>21 Q. So what is that assertion based on?</p> <p>22 A. Anecdotally. You know, we work with a lot</p> <p>23 of youth in homeless youth centers through our PowerOn</p> <p>24 program; and we work with a lot of organizations where</p> <p>25 harassment and kind of the ability to moderate their</p> |
| <p>51</p> <p>1 harassment," do you know how much of that came from</p> <p>2 social media platforms?</p> <p>3 A. I don't.</p> <p>4 Q. Okay. And then the next statistic there,</p> <p>5 "51 percent have been targeted for 'more severe forms of</p> <p>6 online abuse,'" the same question: Do you know how much</p> <p>7 of that came from social media platforms?</p> <p>8 A. I don't.</p> <p>9 Q. And then the same question for the last stat</p> <p>10 there in the paragraph. It says, "Roughly 41 percent of</p> <p>11 straight adults reported enduring any form of online</p> <p>12 harassment." Do you know how much of that came from</p> <p>13 social media platforms?</p> <p>14 A. I don't.</p> <p>15 Q. The research that was done or the statistics</p> <p>16 that we have here that say 68 percent -- going back to</p> <p>17 the first that I asked you about -- that 68 percent of</p> <p>18 LGBTQ adults have encountered online hate and</p> <p>19 harassment, do you know how that compares to other</p> <p>20 marginalized groups who may have encountered online hate</p> <p>21 or harassment?</p> <p>22 A. I don't.</p> <p>23 Q. In Paragraph 12, just scrolling down the page</p> <p>24 a little bit, the very last sentence there refers to</p> <p>25 "rolling back the clock on social progress." What do</p> | <p>53</p> <p>1 sites and get rid of this content is crucial. And we</p> <p>2 know that there have been attacks on sites that make</p> <p>3 them unusable through hate speech or through people</p> <p>4 basically DoS'ing, you know, the websites and people.</p> <p>5 So it is more anecdotal than anything else. I didn't</p> <p>6 rely on specific statistics or a research paper for</p> <p>7 that.</p> <p>8 Q. What if there were a way for a social media</p> <p>9 platform to allow their individual users to moderate</p> <p>10 their own content? What would you think -- what would</p> <p>11 you think of that?</p> <p>12 MR. DISHER: Objection, form.</p> <p>13 A. I mean, any -- any tool that gives more</p> <p>14 privacy to a user is something that we've advocated for</p> <p>15 in the past.</p> <p>16 Q. (BY MR. WALTON) The next sentence there, the</p> <p>17 last clause says that, "many users will flee these</p> <p>18 platforms." And feel free to read the whole sentence if</p> <p>19 you need to refresh your memory. For the sake of time,</p> <p>20 I won't read it out loud to you.</p> <p>21 But after you've had a chance to read</p> <p>22 that, my question is just: What is your support for</p> <p>23 saying that many users will flee these platforms under</p> <p>24 the circumstances you describe there?</p> <p>25 A. Anecdotal. And knowing from our community</p>   |

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| <p>1 what happens when sites are overrun by hateful content,<br/> 2 and how people move to other sites. So it's anecdotal.<br/> 3 It's not based on research.<br/> 4 Q. Okay. And then, would that be the same for<br/> 5 the last sentence, "At the very least, many will engage<br/> 6 less"? Is that based on any research or data?<br/> 7 A. Anecdotal, correct.<br/> 8 Q. Let's go to Paragraph 14.<br/> 9 We're getting close here, aren't we?<br/> 10 A. Yes.<br/> 11 Q. Let's look at Paragraph 14. It refers to --<br/> 12 ah, the sentence that begins in the middle of that<br/> 13 paragraph, "But if a State like Texas can force a<br/> 14 private company to abandon its values and to host all<br/> 15 viewpoints, then State lawmakers and their viewpoints<br/> 16 and values will come to define the internet." What do<br/> 17 you mean by that?<br/> 18 A. If we allow States to kind of dictate the<br/> 19 content on moderated websites -- and it's mostly for<br/> 20 that. You know, the people behind HB 20 have talked<br/> 21 about the need for conservative voices to be heard more.<br/> 22 Our fear is that when you have a state lawmaker making<br/> 23 law based on a viewpoint that they want to definitely<br/> 24 push themselves, then, marginalized communities are not<br/> 25 going to win.</p> | <p>54</p> <p>1 MR. DISHER: Objection, form.<br/> 2 A. It allows hate speech on platforms without<br/> 3 giving them a chance to take it down. So it forces<br/> 4 platforms to adopt speech that they might not adopt<br/> 5 otherwise.<br/> 6 Q (BY MR. WALTON) Okay. When you say<br/> 7 "platforms adopting speech," what -- I guess, what does<br/> 8 that mean? I'm confused by that.<br/> 9 A. Meaning that --<br/> 10 MR. DISHER: Objection, form.<br/> 11 A. Meaning that platforms would have to allow<br/> 12 speech on their sites that they may not agree with under<br/> 13 HB 20. So they would have to adopt speech that they're<br/> 14 not -- yeah, so it is not -- it would force content on<br/> 15 platforms that they may not want on their platforms for<br/> 16 whatever reason.<br/> 17 Q. (BY MR. WALTON) And going back to that<br/> 18 sentence, then, that I just read, how does this -- I<br/> 19 guess I don't understand the last part of that sentence.<br/> 20 So explain to me how HB 20 causes the lawmakers and<br/> 21 their viewpoints and values to define the internet.<br/> 22 MR. DISHER: Objection, form.<br/> 23 A. Well, if you are passing a law that doesn't<br/> 24 allow discretion for platforms to make their own content<br/> 25 decisions and the stated, kind of, impetus behind the</p>         |
| <p>1 So we all know that laws go on the books.<br/> 2 Laws are not always neutrally applied, and they're<br/> 3 definitely not always applied neutrally to marginalized<br/> 4 communities. So even though you may have a viewpoint-<br/> 5 neutral law, as it's supposed to be, the enforcement of<br/> 6 that law would reflect the values of the State that<br/> 7 imposed that law.<br/> 8 Q. So just to be clear, are you -- are you<br/> 9 opposed to HB 20 because of what it says in black and<br/> 10 white or because of how you are afraid it may be<br/> 11 enforced or maybe both?<br/> 12 A. I --<br/> 13 MR. DISHER: Objection, form.<br/> 14 Go ahead.<br/> 15 A. I'm opposed to what it says in black and white<br/> 16 about content moderation.<br/> 17 Q. (BY MR. WALTON) Okay. A minute ago you were<br/> 18 talking about how you were afraid it might be enforced.<br/> 19 Do you have any concerns as to how HB 20 might be<br/> 20 enforced?<br/> 21 A. I have concerns about how any law that tries<br/> 22 to dictate viewpoint would be enforced in any<br/> 23 circumstance, not just HB 20.<br/> 24 Q. I guess, explain to me how HB 20 dictates<br/> 25 viewpoint.</p>  | <p>55</p> <p>1 law is to allow more conservative voices, then more<br/> 2 conservative voices will be on the platform, meaning the<br/> 3 content decisions will be affected by this law.<br/> 4 Q. (BY MR. WALTON) That next sentence refers to<br/> 5 "state-run media." What do you mean by that?<br/> 6 A. Again, if lawmakers are now dictating<br/> 7 viewpoint and what content that a platform can do, that<br/> 8 would be a kind of form of state-run media now, where<br/> 9 the State's dictating content for platforms.<br/> 10 Q. So what content is the State dictating here?<br/> 11 A. It --<br/> 12 MR. DISHER: Objection, form.<br/> 13 A. It would be forcing websites and social media<br/> 14 sites to host content that they may not necessarily<br/> 15 agree with.<br/> 16 Q. (BY MR. WALTON) And is this the content of<br/> 17 state lawmakers?<br/> 18 MR. DISHER: Objection, form.<br/> 19 A. Is it the content of state lawmakers? I<br/> 20 don't -- I can't speak specifically to state lawmakers,<br/> 21 but it is a State telling a media company that they have<br/> 22 to host content that they may not host otherwise. So it<br/> 23 is a state-imposed prohibition or content moderation<br/> 24 policy or lack of content moderation policy that the<br/> 25 company might not otherwise get involved in.</p> |

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| <p>1 Q (BY MR. WALTON) Let me -- let me look at my<br/> 2 notes here, and I may have a few other specific<br/> 3 questions for you. I certainly appreciate your time<br/> 4 here today.</p> <p>5 If you're going to -- if you're going to<br/> 6 sign up -- you mentioned earlier that you do some work<br/> 7 with Facebook as far as consulting or -- anyway, I don't<br/> 8 want to put words in your mouth -- but you're familiar<br/> 9 with Facebook, have some interactions with them; you're<br/> 10 also under a non-disclosure agreement. So I don't want<br/> 11 to ask you anything that might be subject to that. But<br/> 12 I think I have this straight -- and I think this is<br/> 13 public information, but you -- you tell me how it works.<br/> 14 If you want to sign up for a Facebook account, what<br/> 15 information do you have to provide in order to just open<br/> 16 a Facebook account?</p> <p>17 A. I --</p> <p>18 MR. DISHER: Objection, form.</p> <p>19 A. I got my Facebook kind of like 15 years ago,<br/> 20 so I have no idea.</p> <p>21 Q (BY MR. WALTON) Okay.</p> <p>22 A. I'm in -- yeah, I'm in the older generation<br/> 23 that got it. So it's been probably about 15, 20 years<br/> 24 since I've opened an account on Facebook. So I can't<br/> 25 answer that question. I don't -- I don't know.</p> | <p>58</p> <p>1 Q (BY MR. WALTON) Okay. When a social media<br/> 2 platform has a content moderation policy in place, how<br/> 3 transparent should they be with their users as to what<br/> 4 that content moderation policy is?</p> <p>5 MR. DISHER: Objection, form.</p> <p>6 A. I think it's a balance between kind of making<br/> 7 sure that the policy is not so public that it can be<br/> 8 circumvented and giving enough information for people to<br/> 9 have resources and kind of, you know, actionable steps<br/> 10 they can take if they're being harassed. So it is kind<br/> 11 of a mix.</p> <p>12 I understand kind of the need to keep<br/> 13 some things private and inside the company so that<br/> 14 they're -- you know, so that the processes are not being<br/> 15 circumvented; but there is definitely a need for<br/> 16 transparency around kind of how these decisions are<br/> 17 made, for sure. That can always be improved.</p> <p>18 Q. (BY MR. WALTON) Social media platforms<br/> 19 today, right now, do you think there needs to be more<br/> 20 transparency than they're currently giving regarding<br/> 21 their content moderation policies?</p> <p>22 A. I think --</p> <p>23 (Simultaneous speakers.)</p> <p>24 MR. DISHER: Hold on. Hold on.</p> <p>25 Objection, form.</p> | <p>59</p> <p>1 Q. Okay. That's fine.</p> <p>2 Maybe you can walk me through this: For<br/> 3 somebody who is getting harassed or bullied today --<br/> 4 let's say it's on Facebook or some other social media<br/> 5 platform. You know, despite the current content<br/> 6 moderation policies, they still feel that they're<br/> 7 getting harassed or bullied. What -- what -- do they<br/> 8 have any legal recourse?</p> <p>9 MR. DISHER: Objection, form.</p> <p>10 A. I -- I can't answer that question. I don't<br/> 11 know --</p> <p>12 Q. (BY MR. WALTON) Okay.</p> <p>13 A. -- if they have legal recourse or not.</p> <p>14 Q. I mean, can they sue the social media<br/> 15 platform?</p> <p>16 MR. DISHER: Objection, form.</p> <p>17 A. I don't think so, but I'm not a hundred<br/> 18 percent sure on that.</p> <p>19 Q. (BY MR. WALTON) Okay. Is that because of<br/> 20 Section 230?</p> <p>21 MR. DISHER: Objection, form.</p> <p>22 A. I mean, Section 230 would prevent companies<br/> 23 from lawsuits based on their content moderation<br/> 24 policies. So, yes, broadly, Section 230 would protect<br/> 25 companies from content moderation policies.</p> | <p>60</p> <p>1 A. I think transparency's always good, period.<br/> 2 In any of these -- you know, in every -- in every kind<br/> 3 of situation and area that we've talked about, I've<br/> 4 always advocated for more transparency and more clarity<br/> 5 around resources and recourse for actions. So<br/> 6 transparency's always something that we advocate for.</p> <p>7 Q. (BY MR. WALTON) Sure. I guess -- so earlier<br/> 8 we talked a little bit about content moderation<br/> 9 policies, about how, you know, they are what they are<br/> 10 today; you think maybe they can improve some in the<br/> 11 future.</p> <p>12 How would you -- where on that spectrum<br/> 13 would you put the current transparency as far as<br/> 14 companies' content moderation policies? Are they as<br/> 15 transparent as they need to be; or do you think there's<br/> 16 room for improvement there, too?</p> <p>17 MR. DISHER: Objection, form.</p> <p>18 A. I think there's always room for improvement in<br/> 19 transparency from social media.</p> <p>20 Q. (BY MR. WALTON) Okay. And just to clarify,<br/> 21 I think I asked you early on this morning whether LGBT<br/> 22 Tech itself was a social media platform; and I believe<br/> 23 you responded that it was not. Did I get that right?</p> <p>24 A. Correct.</p> <p>25 Q. Okay. So if -- let's say if HB 20 went into</p> |
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| <p>1 effect, is there anything that LGBT Tech would be<br/> 2 required to do differently to comply with HB 20?<br/> 3 MR. DISHER: Objection, form.<br/> 4 A. I -- I don't know. I haven't looked at the<br/> 5 bill closely enough to look at the definitions and<br/> 6 everything. I mean, I know it applies to platforms over<br/> 7 50 million; but I haven't really thought about the HB 20<br/> 8 impact. As far as I know, there is no impact; but I<br/> 9 don't know. I haven't thought about it.<br/> 10 Q (BY MR. WALTON) Okay. But LGBT Tech doesn't<br/> 11 have, you know, an action plan to comply with HB 20<br/> 12 right now?<br/> 13 A. No.<br/> 14 MR. DISHER: Objection, form.<br/> 15 Q. (BY MR. WALTON) Why is LGBT --<br/> 16 (Simultaneous speakers.)<br/> 17 THE WITNESS: -- Todd.<br/> 18 MR. WALTON: Sorry. I didn't mean to cut<br/> 19 anybody off.<br/> 20 THE WITNESS: Sorry, yeah.<br/> 21 Q. (BY MR. WALTON) Why is LGBT Tech supporting<br/> 22 this lawsuit?<br/> 23 A. Because we feel it's important to kind of<br/> 24 stop laws that mandate -- or that affect content<br/> 25 moderation, wherever they're at, if we can. It really</p>  | <p>62<br/> 1 that.<br/> 2 Q. (BY MR. WALTON) Okay. Why is LGBT Tech not a<br/> 3 plaintiff in this lawsuit?<br/> 4 MR. DISHER: Objection, form.<br/> 5 A. For us, resources. We -- I'm the only person<br/> 6 who does every policy position that I talked to you<br/> 7 about. We have the ability to weigh in with a four-page<br/> 8 declaration; but we don't have either the economic or<br/> 9 the time and resources to take on a case like this as a<br/> 10 plaintiff.<br/> 11 It's a whole different animal, as you<br/> 12 know, to be a plaintiff than a declarant. So we kind of<br/> 13 insert ourselves where we can, where we can do something<br/> 14 impactful with very little time or money investment; and<br/> 15 that's what we thought here was the opportunity to do.<br/> 16 MR. WALTON: Todd, do you mind if we take<br/> 17 another brief break here?<br/> 18 MR. DISHER: Yeah, I mean, do you want to<br/> 19 just -- are you determining how much more you have; or<br/> 20 what's your thought here?<br/> 21 MR. WALTON: Yeah. Yeah, I think I'm<br/> 22 pretty close here; and if you give me five or ten<br/> 23 minutes, I think we can wrap this up really fast.<br/> 24 MR. DISHER: Okay. You want to just do a<br/> 25 five-minute break then?</p> |
| <p>63<br/> 1 is just -- you know, it's an issue that we feel it's not<br/> 2 getting enough attention in the LGBT community or it may<br/> 3 have, like, kind of the unintended consequences that can<br/> 4 happen from laws like this for our community.<br/> 5 And if you look at the declaration, it<br/> 6 really is kind of highlighting kind of the dangers<br/> 7 that LGBT individuals face online that are a greater<br/> 8 proportion than other communities and ringing the alarm<br/> 9 that, you know, you can't kind of change these laws<br/> 10 without some of these things affecting marginalized<br/> 11 communities like ours.<br/> 12 So that's -- that's why we think it's<br/> 13 important to speak out, when we can, on the issue.<br/> 14 Q. If social media platforms did not have any<br/> 15 content moderation policy and their leadership refused<br/> 16 to implement any content moderation policy, would you --<br/> 17 would you support a law that required them to moderate<br/> 18 content such as hate speech?<br/> 19 MR. DISHER: Objection, form.<br/> 20 A. I can't answer that just at a broad level. I<br/> 21 don't know what the law would be. I don't know what<br/> 22 specifics there would be. It's also kind of a weird<br/> 23 kind of hypothetical in a way that no social media<br/> 24 company wouldn't have any content moderation. So I just<br/> 25 don't think it's realistic, so I can't really answer</p> | <p>64<br/> 1<br/> 2<br/> 3<br/> 4<br/> 5<br/> 6<br/> 7<br/> 8<br/> 9<br/> 10<br/> 11<br/> 12<br/> 13<br/> 14<br/> 15<br/> 16<br/> 17<br/> 18<br/> 19<br/> 20<br/> 21<br/> 22<br/> 23<br/> 24<br/> 25<br/> 65<br/> 1 MR. WALTON: Yeah, that's fine.<br/> 2 MR. DISHER: Okay.<br/> 3 THE REPORTER: We're going off the record<br/> 4 at 9:41 a.m.<br/> 5 (Off the record from 9:41 to 9:46 a.m.)<br/> 6 THE REPORTER: We're going back on the<br/> 7 record at 9:46 a.m.<br/> 8 Q (BY MR. WALTON) Well, Mr. Gutierrez, are you<br/> 9 ready to proceed with your deposition?<br/> 10 A. I am.<br/> 11 Q. Well, I have some good news for you. I have<br/> 12 looked over my notes; and I can say that at this point,<br/> 13 I have no further questions at this time.<br/> 14 And I will pass the witness.<br/> 15 THE WITNESS: That is really good news.<br/> 16 Thank you.<br/> 17 MR. DISHER: Nothing from us at this<br/> 18 time. Thank you all.<br/> 19 MR. WALTON: All right. Well, thank you<br/> 20 for your time, Mr. Gutierrez. We appreciate it.<br/> 21 THE WITNESS: Thank you. Bye everyone.<br/> 22 THE REPORTER: This concludes the<br/> 23 deposition at 9:46 a.m.<br/> 24 (Deposition adjourned at 9:46 a.m.)<br/> 25 (Signature not requested.)</p>                   |

1 STATE OF TEXAS)

2 REPORTER'S CERTIFICATION

3 I, DEBBIE D. CUNNINGHAM, CSR, hereby certify  
4 that the witness was duly sworn and that this transcript  
5 is a true record of the testimony given by the witness.

6 I further certify that I am neither counsel  
7 for, related to, nor employed by any of the parties or  
8 attorneys in the action in which this proceeding was  
9 taken. Further, I am not a relative or employee of any  
10 attorney of record in this cause, nor am I financially  
11 or otherwise interested in the outcome of the action.

12 I further certify that pursuant to FRCP  
13 Rule 30(f)(1) that the signature of the deponent was not  
14 requested by the deponent or a party before the  
15 completion of the deposition.

16 Subscribed and sworn to by me this day,  
17 November 14, 2021.

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Debbie D. Cunningham, CSR

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| Numbers   |  |   |
|---|--|---|
| <b>10:10</b> 46:24<br><b>12-5</b> 15:16<br><b>2015</b> 10:1<br><b>2019</b> 13:9<br><b>2021</b> 5:4<br><b>2065</b> 5:11<br><b>230</b> 10:14 13:2,5,7,<br>10 20:8 24:6,9,14,<br>16,19 25:1,4,9,11,<br>16,17 26:1 48:5,6<br>59:20,22,24<br><b>8:02</b> 5:4<br><b>8:10</b> 46:16<br><b>9:00</b> 47:9,10<br><b>9:10</b> 46:16,17,22,25<br><b>9:14</b> 47:10,12<br><b>9:41</b> 65:4,5<br><b>9:46</b> 65:5,7,23,24 | 23 29:4 31:8,12,24<br>32:3,8 43:1<br><b>adjourned</b> 65:24<br><b>administering</b> 5:11<br><b>adopt</b> 56:4 56:4,13<br><b>adopting</b> 56:7<br><b>adults</b> 50:25 51:11,<br>18<br><b>advent</b> 52:5<br><b>advise</b> 46:6<br><b>advising</b> 22:21<br><b>advocacy</b> 40:21<br><b>advocate</b> 26:1 28:23<br>39:25 40:1 61:6<br><b>advocated</b> 53:14 61:4<br><b>advocates</b> 36:5 43:15<br><b>advocating</b> 42:20<br><b>affect</b> 62:24<br><b>affected</b> 13:5 30:25<br>57:3<br><b>affecting</b> 23:14<br>63:10<br><b>affiliated</b> 11:24<br>17:20<br><b>affiliation</b> 17:13,14<br><b>afraid</b> 55:10,18<br><b>after</b> 9:19,21 47:14<br>53:21<br><b>again</b> 23:1 27:2,3<br>31:1 37:11 38:4<br>43:22 48:20 50:7,<br>16 57:6<br><b>against</b> 23:2,3,6<br>32:9 37:22,23<br>38:11,19 39:2<br><b>age</b> 23:9 26:20<br><b>agencies</b> 10:8<br><b>aggressiveness</b><br>49:19<br><b>ago</b> 9:25 55:17 58:19<br><b>agree</b> 56:12 57:15<br><b>agreed</b> 13:15<br><b>agreement</b> 58:10<br><b>ahead</b> 7:16 8:5 13:20<br>14:21,25 16:10<br>25:23 27:19 28:15<br>31:7 37:7 44:12<br>50:3 55:14<br><b>alarm</b> 43:11 63:8<br><b>algorithm</b> 42:12 | <b>allow</b> 6:22 7:21 53:9<br>54:18 56:11,24<br>57:1<br><b>allowed</b> 24:20 25:1<br>29:17 30:5 33:9<br>35:1 37:25 38:8<br>39:9,10 41:20<br><b>allowing</b> 52:6<br><b>allows</b> 29:12 56:2<br><b>already</b> 7:20 25:3<br>38:11<br><b>also</b> 6:4 20:11 22:20<br>50:14 58:10 63:22<br><b>alternative</b> 33:11<br><b>although</b> 7:8<br><b>always</b> 24:13 55:2,3<br>60:17 61:1,4,6,18<br><b>American</b> 20:18<br><b>among</b> 42:18<br><b>amount</b> 35:1 38:6<br><b>anecdotal</b> 53:5,25<br>54:2,7<br><b>Anecdotally</b> 52:22<br><b>animal</b> 64:11<br><b>another</b> 6:23 7:25<br>8:14 12:6 34:14<br>64:17<br><b>answer</b> 13:20 25:22<br>28:15 31:14,24<br>32:3 37:7 39:21<br>40:4,6 41:4 42:23<br>43:3,25 45:13 46:8<br>49:9,11,15,17<br>58:25 59:10 63:20,<br>25<br><b>answering</b> 7:22 49:15<br><b>answers</b> 6:16,22 7:17,<br>25 8:14 27:4<br><b>anti-conversion</b><br>36:6<br><b>Anti-gay</b> 37:21<br><b>anti-LGBT</b> 52:9<br><b>anti-trans</b> 36:14<br>48:3<br><b>anti-transgender</b><br>34:7<br><b>anybody</b> 62:19<br><b>anyone</b> 14:17 30:3<br><b>anything</b> 19:14 25:17<br>25:17 29:20 53:5 |
| <b>A</b>  |  |   |

|   |   |   |
|---|---|---|
| <p>58:11 62:1<br/> <b>anyway</b> 58:7<br/> <b>anywhere</b> 41:22<br/> <b>apologize</b> 28:2<br/> <b>appear</b> 16:7<br/> <b>appearances</b> 5:15<br/> <b>appears</b> 52:14<br/> <b>applied</b> 41:8 55:2,3<br/> <b>applies</b> 62:6<br/> <b>apply</b> 49:24<br/> <b>appreciate</b> 46:9 58:3<br/> 65:20<br/> <b>apps</b> 31:9<br/> <b>April</b> 13:11<br/> <b>area</b> 10:11 44:21<br/> 61:3<br/> <b>areas</b> 20:7 22:1,5<br/> 24:7 41:2,11 44:13<br/> <b>aren't</b> 54:9<br/> <b>arise</b> 29:25<br/> <b>arises</b> 30:2<br/> <b>around</b> 10:1 13:4<br/> 17:18 20:13 21:1<br/> 35:17 60:16 61:5<br/> <b>art</b> 42:7<br/> <b>ask</b> 7:13 8:3,5,7<br/> 12:25 20:1 23:5<br/> 29:23 40:13 41:24<br/> 45:17 52:13 58:11<br/> <b>asked</b> 9:19 11:9<br/> 13:13 14:6 18:15<br/> 27:20 37:11 45:8,<br/> 10 51:17 61:21<br/> <b>asking</b> 6:15 7:22 8:4<br/> 12:23 16:19,20<br/> 18:13 45:14<br/> <b>assertion</b> 52:19,21<br/> <b>athlete</b> 34:9<br/> <b>attacks</b> 34:7 53:2<br/> <b>attention</b> 32:14 63:2<br/> <b>attitudes</b> 27:12,23<br/> <b>Attorney</b> 6:13 7:1<br/> <b>Austin</b> 5:13 6:4,5<br/> <b>avatar</b> 22:11,13<br/> <b>avatars</b> 22:7<br/> <b>aware</b> 20:9 35:10<br/> 39:1 41:2,23,25<br/> <b>awful</b> 38:2</p> | <p><b>back</b> 6:23 7:25 8:14<br/> 13:11 26:16 27:5<br/> 47:4,11,13 51:16,<br/> 25 52:8 56:17 65:6<br/> <b>bad</b> 33:21 34:11 46:2<br/> <b>balance</b> 60:6<br/> <b>ban</b> 38:5<br/> <b>banned</b> 41:17 50:16<br/> <b>banning</b> 42:11<br/> <b>bans</b> 34:9<br/> <b>based</b> 35:4,5 48:12,<br/> 13 52:21 54:3,6,23<br/> 59:23<br/> <b>basically</b> 53:4<br/> <b>become</b> 9:18 31:9<br/> 32:2 34:3 36:9<br/> 38:1<br/> <b>becomes</b> 22:11<br/> <b>before</b> 6:22 7:22,25<br/> 8:14,18 9:15 12:24<br/> 14:22 24:18 35:20<br/> 52:5<br/> <b>beginning</b> 5:15<br/> <b>begins</b> 20:2 52:15<br/> 54:12<br/> <b>behind</b> 52:19 54:20<br/> 56:25<br/> <b>being</b> 5:7 14:6 21:11<br/> 23:6,17 25:5 28:21,<br/> 24 31:22 32:15<br/> 34:19 38:11 41:22<br/> 44:14 46:1 60:10,<br/> 14<br/> <b>belief</b> 49:5<br/> <b>believe</b> 13:21 15:1,2<br/> 17:16 20:1 26:14<br/> 28:7 40:14,22 44:7<br/> 45:24 61:22<br/> <b>below</b> 37:19,20,20<br/> <b>Ben</b> 6:3,12<br/> <b>benefits</b> 20:22<br/> <b>best</b> 9:12 30:21<br/> 42:20<br/> <b>better</b> 32:2,14<br/> <b>between</b> 12:17 27:25<br/> 29:7 48:12,25 60:6<br/> <b>bigger</b> 38:1<br/> <b>bill</b> 30:21 62:5<br/> <b>bills</b> 34:7</p> | <p><b>bit</b> 12:21 16:17<br/> 51:24 61:8<br/> <b>black</b> 52:17 55:9,15<br/> <b>blanket</b> 39:15 41:1<br/> 49:16,21<br/> <b>block</b> 33:9,21 34:19<br/> <b>board</b> 12:9<br/> <b>books</b> 55:1<br/> <b>both</b> 25:25 39:19<br/> 55:11<br/> <b>bottom</b> 32:22 36:18<br/> 47:18 52:12<br/> <b>break</b> 8:13,15 46:11<br/> 47:14 64:17,25<br/> <b>breeding</b> 31:9<br/> <b>brief</b> 9:10 46:11<br/> 47:14 64:17<br/> <b>bring</b> 25:25 52:7<br/> <b>broad</b> 20:19 21:2<br/> 26:24 27:9 27:9<br/> 39:20 48:20 50:18<br/> 63:20<br/> <b>broadband</b> 20:14<br/> <b>broadly</b> 43:25 59:24<br/> <b>brown</b> 52:17<br/> <b>building</b> 23:11<br/> <b>bulk</b> 16:18<br/> <b>bullet</b> 26:10 28:10<br/> 29:3 31:7 49:3<br/> <b>bullied</b> 59:3,7<br/> <b>bullying</b> 31:10 32:10<br/> 35:2,8,14<br/> <b>bunch</b> 25:25<br/> <b>burn</b> 39:18<br/> <b>business</b> 10:5 10:5<br/> 17:19 34:5<br/> <b>busy</b> 14:8<br/> <b>Bye</b> 65:21</p> <p><b>C</b></p> <p><b>call</b> 6:19<br/> <b>calling</b> 34:11<br/> <b>came</b> 9:11 27:25 51:1,<br/> 7,12<br/> <b>can</b> 6:10,11,16,21<br/> 7:23 8:13 15:5,7,8<br/> 21:3 22:23 23:2,4<br/> 24:4 25:22 30:20<br/> 31:9 32:13 32:13,</p> |
| <p><b>B</b></p>   |   |   |
|   |   |   |

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|---|---|---|
| 14 33:19 34:3,13<br>35:9,15 36:1 37:11<br>42:12 48:8 49:9<br>49:9 54:13 57:7<br>59:2,14 60:7,10,17<br>61:10 62:25 63:3,<br>13 64:13 64:13,23<br>65:12<br><b>cannot</b> 34:13<br><b>can't</b> 39:21 40:4,25<br>41:4 57:20 58:24<br>59:10 63:9,20,25<br><b>capacity</b> 14:10 14:10<br><b>Carlos</b> 5:6<br><b>case</b> 13:15 64:9<br><b>categories</b> 44:1 50:9<br><b>category</b> 21:7 39:21<br>45:14 48:20 49:22<br>50:18<br><b>causes</b> 56:20<br><b>cell</b> 46:24<br><b>censored</b> 39:10 49:7<br><b>censoring</b> 33:8<br><b>Center</b> 11:5,22,24<br>17:12<br><b>CenterLink</b> 12:4<br><b>centers</b> 10:23 11:15,<br>16,24 12:1,5 17:15,<br>17,22 18:1,2 52:23<br><b>Centr</b> 46:22<br><b>Central</b> 5:4 46:16,18,<br>20<br><b>certain</b> 35:8 41:21<br><b>certainly</b> 8:13 27:6<br>35:15 58:3<br><b>cetera</b> 12:9 18:19<br><b>chance</b> 53:21 56:3<br><b>change</b> 25:17 33:15<br>63:9<br><b>changes</b> 14:23 25:5,<br>24 43:12<br><b>changing</b> 25:4 30:24<br><b>Channel</b> 9:14 9:14<br><b>chapters</b> 11:21<br><b>chat</b> 15:4,15<br><b>chatting</b> 13:7<br><b>checked</b> 42:6<br><b>child's</b> 39:17<br><b>Chris</b> 14:22<br><b>Christopher</b> 11:2 | 12:15,17<br><b>Church</b> 5:25 21:16<br><b>circumstance</b> 55:23<br><b>circumstances</b> 53:24<br><b>circumvented</b> 60:8,15<br><b>cisgender</b> 26:18<br><b>cite</b> 50:24<br><b>city</b> 5:24<br><b>civil</b> 11:6 28:16<br>35:16 42:24<br><b>clarification</b> 8:5<br>37:10 40:19<br><b>clarify</b> 8:7 18:14<br>49:13 61:20<br><b>clarity</b> 61:4<br><b>clause</b> 53:17<br><b>clear</b> 7:18 8:6 9:3<br>55:8<br><b>clock</b> 51:25<br><b>close</b> 46:10 54:9<br>64:22<br><b>closely</b> 62:5<br><b>combat</b> 34:17<br><b>come</b> 9:19 13:1 29:22<br>34:3 35:1 36:6<br>38:6 50:19 54:16<br><b>comes</b> 10:13 29:3<br>38:7 45:12<br><b>comfortable</b> 49:20<br>50:17<br><b>coming</b> 11:8<br><b>communities</b> 20:5,6,<br>12,15,18,21 21:1,4,<br>14,25 23:10 24:15,<br>17,20,21 25:13<br>26:20 30:7,23 32:2,<br>20 33:1,24 35:17<br>36:24 37:25 38:3,<br>10,14,16,20 54:24<br>55:4 63:8,11<br><b>community</b> 12:3 18:2<br>21:13,18 23:11,14,<br>23 24:10,15 25:6<br>26:22 28:17 30:25<br>31:5 38:1 39:2<br>43:13 53:25 63:2,4<br><b>companies</b> 17:7,8<br>22:10,21 25:2<br>28:18 31:15,20<br>32:16,18 45:6 | 59:22,25 61:14<br><b>company</b> 54:14 57:21,<br>25 60:13 63:24<br><b>compared</b> 26:18<br><b>compares</b> 51:19<br><b>completely</b> 42:2<br><b>comply</b> 62:2,11<br><b>concern</b> 20:5,6 21:4,<br>5 25:5 30:10<br><b>concerned</b> 32:23 33:8<br>41:12<br><b>concerns</b> 22:3 23:22<br>24:9 29:24,25<br>55:19,21<br><b>concludes</b> 65:22<br><b>conduct</b> 34:4<br><b>conducted</b> 5:7<br><b>confused</b> 56:8<br><b>connected</b> 24:9<br><b>consequences</b> 43:12<br>63:3<br><b>conservative</b> 54:21<br>57:1,2<br><b>constant</b> 52:8<br><b>consulting</b> 58:7<br><b>contained</b> 17:2<br><b>content</b> 29:4,8,18,20<br>30:2,23 31:8,11,24<br>32:3,6,9,15 33:9,<br>14 36:15 38:18<br>39:24 40:1 41:7<br>44:15 45:1,12,16,<br>22 48:3,9,11 49:17<br>52:18 53:1,10 54:1,<br>19 55:16 56:14,24<br>57:3,7,9,10,14,16,<br>19,22,23,24 59:5,<br>23,25 60:2,4,21<br>61:8,14 62:24<br>63:15,16,18,24<br><b>context</b> 29:25<br><b>continue</b> 31:21 32:1<br><b>continues</b> 52:12<br><b>control</b> 28:20,24<br>29:8,9,13<br><b>controlled</b> 36:10<br><b>controls</b> 28:11,13,19,<br>23 29:25 30:10<br><b>conversation</b> 31:17<br>45:21 |
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|   |  |   |
|---|--|---|
| <p><b>conversations</b> 12:16<br/>13:12 32:1,18 38:6,<br/>7 42:24</p> <p><b>conversion</b> 33:7,10,<br/>20 36:2,4,5,9,12<br/>40:11,15,18,21,22<br/>41:8,15 42:21<br/>43:15 44:7</p> <p><b>convert</b> 33:15</p> <p><b>coordinate</b> 12:10</p> <p><b>copy</b> 15:3 16:13</p> <p><b>Corbello</b> 6:5</p> <p><b>corporations</b> 10:9</p> <p><b>correct</b> 50:11 54:7<br/>61:24</p> <p><b>could</b> 15:19,20 36:11<br/>41:3 42:1,2 44:1<br/>45:16 48:7 50:19</p> <p><b>couldn't</b> 43:25</p> <p><b>Counsel</b> 5:6,14,16<br/>6:3 9:13</p> <p><b>counterparts</b> 26:21</p> <p><b>country</b> 11:21</p> <p><b>couple</b> 7:1 21:9</p> <p><b>court</b> 6:25 7:5,11<br/>15:5,20</p> <p><b>Courtney</b> 6:5</p> <p><b>courtroom</b> 7:7,8</p> <p><b>courts</b> 13:22</p> <p><b>covered</b> 16:23 26:4</p> <p><b>created</b> 41:21</p> <p><b>critical</b> 20:3</p> <p><b>crucial</b> 25:12 53:1</p> <p><b>culture</b> 52:4</p> <p><b>Cunningham</b> 5:10</p> <p><b>current</b> 10:3 48:5<br/>59:5 61:13</p> <p><b>currently</b> 17:16 32:7<br/>60:20</p> <p><b>cut</b> 62:18</p> <p><b>cyber</b> 31:10</p> | <p><b>data</b> 20:24 22:12<br/>28:24,25 29:14<br/>52:19 54:6</p> <p><b>data's</b> 23:18</p> <p><b>date</b> 5:3</p> <p><b>deal</b> 39:7,11 40:2<br/>42:20</p> <p><b>dealing</b> 10:9 38:16</p> <p><b>dealt</b> 48:18</p> <p><b>Debbie</b> 5:10 47:7</p> <p><b>decisions</b> 56:25 57:3<br/>60:16</p> <p><b>declarant</b> 64:12</p> <p><b>declaration</b> 9:1<br/>12:22,25 13:1,14,<br/>24 14:16,18 15:1,4,<br/>16 16:7,18 19:15<br/>20:10 26:6,8 33:6<br/>35:22 36:20 37:1,<br/>19 47:17 63:5 64:8</p> <p><b>deeply</b> 40:5</p> <p><b>Defendant</b> 6:4</p> <p><b>define</b> 54:16 56:21</p> <p><b>definitely</b> 35:16,18<br/>44:18,21 49:18,19<br/>54:23 55:3 60:15</p> <p><b>definitions</b> 62:5</p> <p><b>degrees</b> 49:18,19</p> <p><b>Democracy</b> 11:5 17:12</p> <p><b>depends</b> 39:16</p> <p><b>deposition</b> 5:5,12<br/>6:14 8:12,18,23<br/>15:21 20:9 27:4<br/>35:20 47:15 65:9,<br/>23,24</p> <p><b>Deputy</b> 5:6</p> <p><b>describe</b> 10:2 21:3<br/>47:24 53:24</p> <p><b>described</b> 12:12</p> <p><b>describes</b> 16:24</p> <p><b>description</b> 9:10</p> <p><b>despite</b> 59:5</p> <p><b>detail</b> 43:8</p> <p><b>details</b> 43:23</p> <p><b>determine</b> 10:12<br/>11:11 12:7,10<br/>38:21</p> <p><b>determining</b> 10:24<br/>45:3 64:19</p> <p><b>devalued</b> 42:12</p> | <p><b>developing</b> 43:10</p> <p><b>devoted</b> 47:23</p> <p><b>dictate</b> 54:18 55:22</p> <p><b>dictates</b> 55:24</p> <p><b>dictating</b> 57:6,9,10</p> <p><b>difference</b> 29:7 41:2</p> <p><b>differences</b> 40:2</p> <p><b>different</b> 10:13<br/>17:10 18:24 20:7<br/>22:8 23:20 31:19<br/>39:17 42:19 45:16,<br/>22 46:3 64:11</p> <p><b>differentiate</b> 27:25</p> <p><b>differently</b> 39:20<br/>62:2</p> <p><b>difficult</b> 33:18</p> <p><b>digital</b> 10:14 20:16,<br/>17 22:25 31:9</p> <p><b>Director</b> 5:6 11:2<br/>12:15 14:23</p> <p><b>directors</b> 12:8</p> <p><b>Discovery</b> 9:14 9:14,<br/>16,19</p> <p><b>discretion</b> 56:24</p> <p><b>discriminated</b> 23:2,3,<br/>6 38:11</p> <p><b>discrimination</b> 23:7</p> <p><b>discuss</b> 11:1,3,7</p> <p><b>discussing</b> 18:19</p> <p><b>discussion</b> 28:17,18<br/>31:4,15</p> <p><b>Disher</b> 5:17 8:25<br/>15:11</p> <p><b>dispersed</b> 23:19</p> <p><b>dissecting</b> 48:24</p> <p><b>distinction</b> 48:15</p> <p><b>distinguish</b> 48:11</p> <p><b>distributes</b> 10:6</p> <p><b>divide</b> 10:14 20:16,<br/>17 23:1</p> <p><b>doctor</b> 21:15</p> <p><b>doctors</b> 21:18</p> <p><b>document</b> 15:6,8,17,<br/>19 16:1,12,13</p> <p><b>Does</b> 7:18,19 11:13<br/>11:13 16:7,9 18:11<br/>26:13 32:18 39:6<br/>56:7,18 64:6</p> <p><b>doesn't</b> 21:23 56:23<br/>62:10</p> |
| <p><b>D</b></p> <p><b>daily</b> 32:25 34:24</p> <p><b>dangerous</b> 38:9 44:5,<br/>7,17,23 45:2,3<br/>46:1</p> <p><b>dangers</b> 23:15 30:23<br/>63:6</p>   | <p><b>details</b> 43:23</p> <p><b>determine</b> 10:12<br/>11:11 12:7,10<br/>38:21</p> <p><b>determining</b> 10:24<br/>45:3 64:19</p> <p><b>devalued</b> 42:12</p>  | <p><b>Does</b> 7:18,19 11:13<br/>11:13 16:7,9 18:11<br/>26:13 32:18 39:6<br/>56:7,18 64:6</p> <p><b>doesn't</b> 21:23 56:23<br/>62:10</p>   |

|   |   |   |
|---|---|---|
| <p><b>doing</b> 9:15,17 30:20<br/>32:16</p> <p><b>done</b> 13:6,7 15:2<br/>27:16 35:5,10<br/>38:20 43:10,20<br/>51:15</p> <p><b>DoS'ing</b> 53:4</p> <p><b>down</b> 16:25 28:6 33:6<br/>36:17 37:19,20<br/>50:20 51:23 56:3</p> <p><b>download</b> 15:5,19</p> <p><b>drive</b> 35:2,9</p> <p><b>drowned</b> 34:18 36:14</p> <p><b>duly</b> 6:7</p> <p><b>duties</b> 10:2</p> <p><b>dyke</b> 29:20</p>   | <p><b>63:2</b></p> <p><b>entails</b> 44:18</p> <p><b>entities</b> 12:12 18:18,21</p> <p><b>environments</b> 20:20<br/>22:6</p> <p><b>equipment</b> 10:23</p> <p><b>especially</b> 20:18<br/>21:22 38:10</p> <p><b>established</b> 16:11</p> <p><b>even</b> 7:23 34:21<br/>41:23 45:8 55:4</p> <p><b>ever</b> 6:18 6:18,20<br/>8:3,18</p> <p><b>every</b> 31:2 61:2 61:2<br/>64:6</p> <p><b>everybody</b> 15:5</p> <p><b>everyone</b> 15:9 34:25<br/>65:21</p> <p><b>everything</b> 7:12<br/>44:20 62:6</p> <p><b>evolving</b> 31:21</p> <p><b>exactly</b> 17:17 45:21</p> <p><b>example</b> 17:11 21:10<br/>22:2 24:22 29:9<br/>33:7,10,18 36:2<br/>40:11 44:24</p> <p><b>examples</b> 21:9 42:8<br/>44:13</p> <p><b>Executive</b> 11:2 12:15<br/>14:23</p> <p><b>exhaustive</b> 44:14</p> <p><b>Exhibit</b> 15:20,22<br/>17:3 47:19 50:21</p> <p><b>exhibits</b> 26:14</p> <p><b>expectations</b> 7:4</p> <p><b>explain</b> 7:17 55:24<br/>56:20</p> <p><b>explore</b> 23:5</p> <p><b>exploring</b> 23:12<br/>44:22</p> <p><b>expressed</b> 19:21</p> <p><b>extent</b> 33:1 35:8</p> | <p><b>59:4</b></p> <p><b>Facebook's</b> 19:16</p> <p><b>facing</b> 23:7</p> <p><b>fact</b> 42:5</p> <p><b>fags</b> 39:18</p> <p><b>fair</b> 7:18</p> <p><b>Falls</b> 5:25</p> <p><b>familiar</b> 58:8</p> <p><b>far</b> 7:3 23:24 39:24<br/>58:7 61:13 62:8</p> <p><b>fast</b> 64:23</p> <p><b>favor</b> 25:8 40:21</p> <p><b>fear</b> 54:22</p> <p><b>federal</b> 13:3</p> <p><b>feedback</b> 11:25 12:2<br/>37:10</p> <p><b>feel</b> 8:7 18:20 24:18<br/>34:15 43:12 49:20<br/>50:10,16 53:18<br/>59:6 62:23 63:1</p> <p><b>felt</b> 24:23 30:21</p> <p><b>few</b> 23:2 33:19 52:16<br/>58:2</p> <p><b>fifth</b> 47:18</p> <p><b>file</b> 28:8 47:19<br/>50:21</p> <p><b>filed</b> 19:15</p> <p><b>filter</b> 34:19</p> <p><b>final</b> 31:24 32:5</p> <p><b>find</b> 23:4 45:13</p> <p><b>finding</b> 23:11</p> <p><b>fine</b> 27:6 40:7 46:12<br/>59:1 65:1</p> <p><b>finish</b> 6:22 7:22</p> <p><b>finished</b> 7:24</p> <p><b>firm</b> 9:17</p> <p><b>first</b> 8:21,22 9:16<br/>16:23 17:3 20:2<br/>24:22 26:10 28:10<br/>36:23 37:14 49:3<br/>51:17 52:14</p> <p><b>five</b> 64:22</p> <p><b>five-minute</b> 64:25</p> <p><b>flag</b> 43:17</p> <p><b>flagged</b> 42:4</p> <p><b>flee</b> 53:17,23</p> <p><b>Flipping</b> 36:17</p> <p><b>flooded</b> 33:14</p> <p><b>floodgates</b> 37:24</p> <p><b>Florida</b> 13:18,21,24</p> |
| <p><b>E</b></p> <p><b>each</b> 6:17 8:6,8 21:7</p> <p><b>earlier</b> 12:12 23:9,<br/>24 26:20 40:10<br/>48:10 58:6 61:7</p> <p><b>early</b> 61:21</p> <p><b>easiest</b> 15:3</p> <p><b>Eastern</b> 46:16</p> <p><b>economic</b> 64:8</p> <p><b>effect</b> 33:25 62:1</p> <p><b>effects</b> 44:19</p> <p><b>either</b> 23:25 25:7<br/>39:1 64:8</p> <p><b>Ellie</b> 12:15</p> <p><b>eloquently</b> 30:20</p> <p><b>else</b> 14:17 34:25<br/>44:20 53:5</p> <p><b>e-mail</b> 18:6,21 19:10</p> <p><b>employees</b> 12:14</p> <p><b>encountered</b> 50:25<br/>51:18,20</p> <p><b>encryption</b> 10:14<br/>13:5 20:11,12</p> <p><b>end</b> 8:13 35:19</p> <p><b>enduring</b> 51:11</p> <p><b>enforced</b> 55:11,18,20,<br/>22</p> <p><b>enforcement</b> 55:5</p> <p><b>engage</b> 10:8 20:2<br/>54:5</p> <p><b>engines</b> 27:17</p> <p><b>enough</b> 60:8 62:5</p> | <p><b>examples</b> 21:9 42:8<br/>44:13</p> <p><b>Executive</b> 11:2 12:15<br/>14:23</p> <p><b>exhaustive</b> 44:14</p> <p><b>Exhibit</b> 15:20,22<br/>17:3 47:19 50:21</p> <p><b>exhibits</b> 26:14</p> <p><b>expectations</b> 7:4</p> <p><b>explain</b> 7:17 55:24<br/>56:20</p> <p><b>explore</b> 23:5</p> <p><b>exploring</b> 23:12<br/>44:22</p> <p><b>expressed</b> 19:21</p> <p><b>extent</b> 33:1 35:8</p>   | <p><b>F</b></p> <p><b>face</b> 37:17,21 63:7</p> <p><b>Facebook</b> 19:5,12,13<br/>23:25 23:25 24:1,3<br/>58:7,9,14,16,19,24</p>  |

|   |   |   |
|---|---|---|
| <b>Florida's</b> 14:13<br><b>flourish</b> 24:20<br><b>flourishing</b> 25:12<br><b>focus</b> 41:12<br><b>focused</b> 30:25 43:5<br><b>follows</b> 6:7<br><b>force</b> 54:13 56:14<br><b>forces</b> 56:3<br><b>forcing</b> 36:8 57:13<br><b>forgive</b> 18:17<br><b>form</b> 13:19 14:20,24<br>18:10 19:18 25:10,<br>21 27:18 28:14<br>30:1,14 31:13 32:5,<br>12 34:1 37:6 38:24<br>39:4,13 40:3,17,24<br>41:10 42:10,22<br>43:21 44:11 45:4,<br>11 48:1,14,19 49:8<br>50:2 51:11 53:12<br>55:13 56:1,10,22<br>57:8,12,18 58:18<br>59:9,16,21 60:5,25<br>61:17 62:3,14<br>63:19 64:4<br><b>formal</b> 17:13,14<br><b>formed</b> 9:21,22<br><b>forms</b> 51:5<br><b>Forum</b> 11:6<br><b>forums</b> 31:9 33:12<br><b>forward</b> 32:20<br><b>foundational</b> 24:16<br><b>four-page</b> 64:7<br><b>free</b> 8:7 24:23 53:18<br><b>Friday</b> 5:3<br><b>friend</b> 9:12<br><b>from</b> 5:12 6:13 12:2<br>16:12 22:4 22:4<br>25:3,24 27:4,5<br>30:23 32:22 40:15,<br>23 47:10 51:1,7,12<br>52:15 53:25 59:23,<br>25 61:19 63:4 65:5,<br>17<br><b>front</b> 7:7 15:23<br>35:19<br><b>full</b> 32:23 52:14<br><b>full-time</b> 12:13<br><b>fully</b> 40:9<br><b>function</b> 15:4,15 | <b>further</b> 33:6 65:13<br><b>Future</b> 11:5 61:11<br><br><b>G</b><br><br><b>gave</b> 44:8,13<br><b>gay</b> 29:11 39:17<br>52:16<br><b>gender</b> 22:8 34:14<br><b>gender-transforming</b><br>38:5<br><b>General</b> 5:6 9:13<br>45:14,18 49:21<br>50:15<br><b>generally</b> 28:23<br>32:15 41:22 42:6<br><b>General's</b> 6:13<br><b>generation</b> 58:22<br><b>Geolocation</b> 22:15<br><b>get</b> 11:25 12:24<br>13:16 18:20 19:20<br>34:22 37:12 53:1<br>57:25 61:23<br><b>gets</b> 22:12<br><b>getting</b> 25:4 43:7<br>54:9 59:3,7 63:2<br><b>give</b> 6:21 9:10 21:9<br>25:2 46:7 64:22<br><b>given</b> 8:18 10:25<br><b>gives</b> 21:18 53:13<br><b>giving</b> 10:23 43:2<br>56:3 60:8,20<br><b>goes</b> 21:15 28:21<br>29:16 52:19<br><b>going</b> 7:4,23 8:11<br>10:1,25 15:24,25<br>16:10 21:19 22:18,<br>19,22,25 23:18<br>23:18,19 27:5 29:4<br>36:7,11,13,19 38:1<br>45:20 46:10 47:8,<br>11 49:15 51:16<br>52:11 54:25 56:17<br>58:5 58:5 65:3,6<br><b>gone</b> 36:4,6<br><b>good</b> 6:12,24 8:2<br>21:8,13 32:16 33:7,<br>23 40:19 46:15<br>61:1 65:11,15<br><b>gosh</b> 13:8 | <b>got</b> 37:12 58:19,23<br><b>Gotcha</b> 10:16,24<br>11:22 17:22 43:14<br>49:2,23<br><b>gotten</b> 48:24 52:2<br><b>Graham</b> 13:5<br><b>grail</b> 31:16<br><b>granular</b> 43:8<br><b>greater</b> 38:15 63:7<br><b>greatly</b> 32:23<br><b>ground</b> 7:1<br><b>grounds</b> 31:9<br><b>group</b> 12:6 17:5,8<br>18:15 39:25<br><b>groups</b> 11:7 18:18<br>41:21 51:20<br><b>guess</b> 26:6,24 33:22<br>35:4 39:7 40:8,12<br>42:18 46:17 55:24<br>56:7,19 61:7<br><b>guidelines</b> 45:2,5,7<br><b>guru</b> 41:24<br><b>Gutierrez</b> 5:6 6:10<br>8:19 15:14,16 16:5,<br>12 47:13 65:8,20<br><br><b>H</b><br><br><b>hadn't</b> 24:18<br><b>handled</b> 23:18,19<br><b>happen</b> 35:12 63:4<br><b>happening</b> 23:21<br><b>happens</b> 35:11 54:1<br><b>happy</b> 18:14 33:14<br><b>harassed</b> 59:3,7<br>60:10<br><b>harassment</b> 31:10<br>34:2,18 35:2,9<br>37:18,21 51:1,12,<br>19,21 52:8,25<br><b>hard</b> 34:4 45:13<br>49:16 50:8<br><b>harmful</b> 20:18 25:6<br><b>harms</b> 36:24 37:2<br>37:2,14<br><b>has</b> 10:5 12:13 15:5<br>22:22 24:13 25:12<br>29:24 30:6 42:5<br>43:13 60:2<br><b>hate</b> 34:18,22 35:17 |
|---|---|---|

|  |   |   |
|--|---|---|
| <p>38:2,6,16,17,19,21<br/> 39:1,7,11 41:23<br/> 47:23 48:12 48:12,<br/> 17,25,25 50:8 50:8,<br/> 12,25 51:18,20<br/> 52:7 53:3 56:2<br/> 63:18<br/> <b>hateful</b> 52:18 54:1<br/> <b>hate-speech</b> 29:20<br/> <b>haven't</b> 19:21,22<br/> 40:4 45:6 48:24<br/> 62:4,7,9<br/> <b>having</b> 6:7 7:5 13:13<br/> 21:12<br/> <b>head</b> 7:14 9:22,24<br/> <b>health</b> 26:12,24,25<br/> 27:2 33:5,11<br/> <b>hear</b> 6:10,17<br/> <b>heard</b> 10:17 23:17<br/> 24:18 54:21<br/> <b>hell</b> 39:18,19<br/> <b>help</b> 14:18<br/> <b>helpful</b> 30:6<br/> <b>helps</b> 12:19 21:24<br/> <b>here</b> 15:25 19:25<br/> 25:14 26:10 28:2,5<br/> 31:4 33:4 35:24<br/> 36:17,19,22 37:1,9<br/> 43:8 46:11 47:18,<br/> 24 49:3 50:19,24<br/> 51:16 54:9 57:10<br/> 58:2,4 64:15,17,20,<br/> 22<br/> <b>hetero/cis</b> 26:22<br/> <b>heterosexual</b> 26:19<br/> 37:23<br/> <b>Hey</b> 8:15 43:18<br/> <b>high</b> 17:8 26:11,13<br/> 30:5<br/> <b>higher</b> 26:21 37:18,<br/> 21<br/> <b>highlight</b> 30:22<br/> <b>highlighting</b> 63:6<br/> <b>hold</b> 16:21 22:13<br/> 25:20 25:20 25:20<br/> 30:13 30:13 37:5<br/> 44:10 60:24 60:24<br/> <b>holy</b> 31:16<br/> <b>home</b> 23:3,4,7<br/> <b>homeless</b> 52:23</p> | <p><b>homophobia</b> 31:10<br/> 32:10<br/> <b>homophobic</b> 48:3<br/> <b>hope</b> 31:25<br/> <b>hopefully</b> 28:4<br/> <b>hormone</b> 44:19 45:25<br/> 46:1<br/> <b>host</b> 54:14 57:14,22,<br/> 22<br/> <b>hour</b> 46:11<br/> <b>however</b> 48:8<br/> <b>huh-uh</b> 7:15<br/> <b>hundred</b> 41:1 59:17<br/> <b>hypothetical</b> 63:23</p> <hr/> <p style="text-align: center;"><b>I</b></p> <p><b>I'd</b> 8:15<br/> <b>idea</b> 58:20<br/> <b>ideally</b> 45:18<br/> <b>identities</b> 22:7<br/> <b>identity</b> 22:8 23:6,<br/> 12 36:13<br/> <b>I'll</b> 6:14,15,22 7:24<br/> 11:9 17:5 26:16<br/> 27:2<br/> <b>ill</b> 49:6<br/> <b>illegal</b> 30:5<br/> <b>I'm</b> 5:20,23 6:4,13<br/> 7:23 8:4,7 9:25<br/> 10:4 15:24 16:4,10<br/> 17:17 18:14,15,19<br/> 19:20 24:3 25:3<br/> 28:3 29:18 33:17<br/> 37:13 41:2,24 42:9,<br/> 25 49:10,15,15<br/> 55:15 56:8 58:22<br/> 58:22 59:17 64:5,<br/> 21<br/> <b>impact</b> 25:6 38:9,14<br/> 62:8 62:8<br/> <b>impactful</b> 30:17,22<br/> 31:3 64:14<br/> <b>impacts</b> 23:15<br/> <b>impetus</b> 56:25<br/> <b>implement</b> 24:1 63:16<br/> <b>importance</b> 20:12,13<br/> 24:14 31:5<br/> <b>important</b> 7:13,15<br/> 11:8 12:3 20:14,25</p> | <p>21:7 22:10,16<br/> 23:16 43:6 62:23<br/> 63:13<br/> <b>impose</b> 37:1<br/> <b>imposed</b> 55:7<br/> <b>improve</b> 61:10<br/> <b>improved</b> 60:17<br/> <b>improvement</b> 61:16,18<br/> <b>include</b> 32:19<br/> <b>included</b> 20:22<br/> <b>including</b> 24:21<br/> 32:24<br/> <b>inclusive</b> 20:22<br/> <b>incomplete</b> 46:8<br/> <b>incremental</b> 31:25<br/> 34:4<br/> <b>indeed</b> 25:11 33:2<br/> <b>individual</b> 22:23<br/> 46:2 53:9<br/> <b>individuals</b> 18:2<br/> 21:14,21,22 22:6<br/> 23:1,7 24:23 26:19<br/> 27:13 32:25 33:11<br/> 34:10,13 35:13<br/> 36:12,25 37:17,22,<br/> 23 38:11 44:20<br/> 49:5 50:11 52:5,9<br/> 63:7<br/> <b>industry</b> 32:8<br/> <b>inflict</b> 36:24<br/> <b>influx</b> 38:17<br/> <b>information</b> 22:12<br/> 23:11 26:12,24,25<br/> 27:2,15 28:1,21,22<br/> 33:3,4,6,21,23,23<br/> 35:25 40:14,18,20<br/> 41:14,15 42:1,2,4,<br/> 5,13,20 43:15 44:6,<br/> 18 46:1,3 58:13,15<br/> 60:8<br/> <b>information's</b> 43:24<br/> <b>innocent</b> 41:4<br/> <b>innocuous</b> 41:4<br/> <b>insert</b> 64:13<br/> <b>inside</b> 60:13<br/> <b>instead</b> 7:14<br/> <b>Institute</b> 5:7<br/> <b>interactions</b> 29:17<br/> 58:9<br/> <b>interested</b> 10:9</p> |
|--|---|---|

|  |   |  |
|--|---|--|
| <p>11:10 13:9,13<br/> <b>interesting</b> 12:3<br/> <b>internet</b> 26:12 27:12,<br/>   14,17 32:24 41:22<br/>   52:6 54:16 56:21<br/> <b>interrupt</b> 6:20<br/> <b>into</b> 22:19 31:7<br/>   33:25 35:1 36:9<br/>   38:7 43:7 45:19<br/>   48:24 50:9,19<br/>   61:25<br/> <b>introduced</b> 13:4 34:8<br/> <b>invaded</b> 52:6<br/> <b>investment</b> 64:14<br/> <b>involved</b> 10:15 12:18<br/>   57:25<br/> <b>involvement</b> 11:12<br/> <b>isn't</b> 50:8<br/> <b>issue</b> 11:1 30:17,18,<br/>   18 31:2 34:23<br/>   35:17 40:5 46:7<br/>   63:1,13<br/> <b>issues</b> 10:13,15 12:3<br/>   13:2 20:4,6,17<br/>   21:3,5,20 23:1,13<br/>   24:8 26:1 43:6,7<br/> <b>It's</b> 10:20 11:6 12:5,<br/>   14 14:6 15:1 17:13,<br/>   18,19 20:1 20:1<br/>   21:2,7 22:10 23:16<br/>   26:6 30:4,5 31:14,<br/>   25 34:2 35:6 36:25<br/>   39:9,11,14,14,20,<br/>   22 42:5,13,13,14<br/>   43:9,23 44:2 45:20<br/>   48:2,20,21,22<br/>   49:16,19 50:6 50:6,<br/>   8,12,13,16,18 54:2,<br/>   3,19 55:5 58:23<br/>   59:4 60:6 62:23<br/>   63:1 63:1,12,22,25<br/>   64:11<br/> <b>its</b> 32:4 48:7,8,9<br/>   54:14<br/> <b>itself</b> 12:25 15:1<br/>   61:22<br/> <b>I've</b> 9:19 13:6,7<br/>   15:2,14 35:13,15<br/>   37:8 42:23 43:9<br/>   48:15 58:24 61:3</p> | <p style="text-align: center;"><b>J</b></p> <p><b>jeopardized</b> 36:15<br/> <b>Jeremy</b> 5:18<br/> <b>job</b> 32:16<br/> <b>joined</b> 9:22,23<br/> <b>joining</b> 11:10<br/> <b>journey</b> 21:23<br/> <b>judge</b> 7:8<br/> <b>jump</b> 6:22 7:25 8:14<br/>   16:25 16:25 28:6<br/>   40:8<br/> <b>junky</b> 42:14<br/> <b>jury</b> 7:8<br/> <b>just</b> 6:20,25 7:2,5,6,<br/>   15 8:13,15 9:3<br/>   12:25 14:7,10,15,<br/>   16 15:8 16:19 17:5<br/>   18:20 21:5 24:14<br/>   27:16 30:8 31:1<br/>   36:19 37:13 39:14,<br/>   15 40:12 40:12,13<br/>   41:1 42:4 43:17,25<br/>   46:6,15 48:2 49:2,<br/>   12 50:14 51:23<br/>   53:22 55:8,23<br/>   56:18 58:15 61:20<br/>   63:1,20,24 64:19,<br/>   24</p> | <p>10,12,16 61:2<br/>   62:23 63:3,6,6,9,<br/>   22,23 64:12<br/> <b>kinds</b> 10:15<br/> <b>know</b> 6:21 8:11 11:3<br/>   13:14 14:5,7 18:11,<br/>   13 19:15,16 20:20<br/>   21:10,11,14,24<br/>   22:2,4,8,10,22<br/>   23:5,10,19,20,24<br/>   24:8,11,12 25:14<br/>   27:17,20 29:2,21<br/>   30:4,16 31:19 32:4<br/>   33:13 33:13,20<br/>   34:2,8,21,22,22<br/>   36:6,10 37:17<br/>   38:17 39:16 41:3,6,<br/>   11,20 42:5,9,18,23<br/>   43:2,3,4,11,11,22<br/>   44:2,15,21 45:5,21,<br/>   24,24,25 46:5<br/>   48:20,21 49:17<br/>   50:6,7,15,17 51:1,<br/>   6,12,19 52:11,22<br/>   53:2,4 54:20 55:1<br/>   58:25 59:5,11 60:9,<br/>   14 61:2,9 62:4,6,8,<br/>   9,11 63:1,9,21,21<br/>   64:12<br/> <b>knowing</b> 15:8 53:25<br/> <b>knowledgeable</b> 21:20</p> <p style="text-align: center;"><b>K</b></p> <p><b>keep</b> 60:12<br/> <b>keeping</b> 29:14 32:16<br/> <b>kids</b> 45:24<br/> <b>kind</b> 9:20 10:4,11,12<br/>   11:6,7 12:1,2,5,6<br/>   13:9,14 14:24<br/>   16:16 22:4 23:4<br/>   23:4,9 24:14,23<br/>   25:3 28:16,21<br/>   29:16,17 30:3 31:3,<br/>   16 32:19 33:9,15<br/>   34:4 38:8 42:11<br/>   43:7 45:14,15,15,<br/>   25 48:24 49:20<br/>   49:20 50:7,14 52:3,<br/>   7,25 54:18 56:25<br/>   57:8 58:19 60:6,9,</p> |
|  |   | <p style="text-align: center;"><b>L</b></p> <p><b>labeled</b> 15:16<br/> <b>lack</b> 57:24<br/> <b>laptop</b> 46:19,25<br/> <b>large</b> 21:5<br/> <b>last</b> 32:23 40:13<br/>   51:9,24 53:17 54:5<br/>   56:19<br/> <b>law</b> 9:1,4,6,7,17<br/>   13:17,21,24 14:13,<br/>   15 24:13 25:12<br/>   32:24 38:15 43:12<br/>   54:23 55:5,6,7,21<br/>   56:23 57:1,3 63:17,<br/>   21<br/> <b>lawmaker</b> 54:22<br/> <b>lawmakers</b> 54:15</p>   |

|  |  |   |
|--|--|---|
| <p>56:20 57:6,17,19,<br/>20<br/><b>laws</b> 21:12 55:1,2<br/>62:24 63:4,9<br/><b>lawsuit</b> 13:24 16:8<br/>62:22 64:3<br/><b>lawsuits</b> 59:23<br/><b>lawyer</b> 24:11,12<br/><b>laying</b> 13:14<br/><b>leaders</b> 20:3,16<br/><b>leadership</b> 63:15<br/><b>least</b> 41:17 54:5<br/><b>leery</b> 25:3<br/><b>left</b> 9:14,19 25:4<br/>40:12<br/><b>legal</b> 59:8,13<br/><b>less</b> 36:9 54:6<br/><b>let</b> 7:24 14:25 19:20<br/>26:5 29:23 40:13<br/>58:1 58:1<br/><b>let's</b> 15:25 16:3,16<br/>31:7 32:22 40:8<br/>46:15 47:17 49:2,4<br/>50:20 54:8,11 59:4<br/>61:25<br/><b>letting</b> 19:15<br/><b>level</b> 13:3 50:12<br/>63:20<br/><b>levels</b> 45:16,22<br/><b>life</b> 22:9<br/><b>life-saving</b> 33:2<br/>36:1,11<br/><b>like</b> 7:7 8:15 10:13,<br/>23 11:4 14:8 16:17<br/>21:6 22:4,11 24:15<br/>25:18 27:1,21<br/>29:20 30:7 32:4,18<br/>33:18 34:24 37:25<br/>41:8 42:8,11 43:4<br/>45:17,18 46:3<br/>54:13 58:19 63:3,4,<br/>11 64:9<br/><b>likewise</b> 6:5<br/><b>Lindsey</b> 13:5<br/><b>line</b> 32:22<br/><b>link</b> 35:15<br/><b>list</b> 29:10 29:10<br/><b>listed</b> 49:24<br/><b>literally</b> 48:2<br/><b>little</b> 12:21 16:17</p> | <p>51:24 61:8 64:14<br/><b>lives</b> 38:12<br/><b>local</b> 17:15 21:17<br/><b>located</b> 5:8<br/><b>location</b> 22:20<br/><b>locations</b> 5:15<br/><b>long</b> 8:11<br/><b>look</b> 15:1 26:16 27:3<br/>32:4 41:8 45:18<br/>50:13 54:11 58:1<br/>62:5 63:5<br/><b>looked</b> 62:4 65:12<br/><b>looking</b> 15:6,9 16:1<br/>38:12 43:22<br/><b>lose</b> 33:2,24<br/><b>lot</b> 11:4,9,17 20:7,<br/>13 21:1,11,13 22:5,<br/>16 24:20 28:20<br/>29:2 30:19,20 34:5,<br/>7,9,11,12,15,16,17,<br/>24 35:2 36:9 41:2,<br/>3 42:23,24 43:7<br/>44:22 50:9,18<br/>52:22,24<br/><b>loud</b> 53:20</p> | <p><b>marked</b> 15:22<br/><b>married</b> 29:10<br/><b>Maryland</b> 5:9<br/><b>may</b> 19:6 21:15,16,23<br/>22:7,13 23:7,22<br/>29:1 36:8 38:12<br/>50:10 51:20 55:4,<br/>10 56:12,15 57:14,<br/>22 58:2 63:2<br/><b>maybe</b> 13:9 46:13<br/>46:13 55:11 59:2<br/>61:10<br/><b>mean</b> 11:23 14:4<br/>18:12 19:19 20:9<br/>24:11 26:13 28:16<br/>31:14 33:5 34:2<br/>35:7,14,24 39:15<br/>41:19 52:1 53:13<br/>54:17 56:8 57:5<br/>59:14,22 62:6,18<br/>64:18<br/><b>meaning</b> 20:17 41:20<br/>56:9,11 57:2<br/><b>means</b> 5:12 6:14<br/>26:17 28:20 49:18<br/>52:2<br/><b>meant</b> 10:22 52:9<br/><b>media</b> 17:23 18:3,8,<br/>21 19:2,8 20:4<br/>23:8 25:1 27:16,24<br/>28:18 29:11,14<br/>31:15 32:17 40:15,<br/>23 41:24,25 43:17<br/>45:1,6 47:22 51:2,<br/>7,13 52:3 53:8<br/>57:5,8,13,21 59:4,<br/>14 60:1,18 61:19,<br/>22 63:14,23<br/><b>medical</b> 41:13,14,16<br/>43:18 44:18 46:2<br/><b>medicines</b> 24:25<br/><b>members</b> 11:13 12:9<br/><b>memory</b> 27:5 53:19<br/><b>mentally</b> 49:6<br/><b>mentioned</b> 23:24<br/>25:15 32:11 40:10<br/>58:6<br/><b>mentions</b> 17:4<br/><b>messages</b> 52:18<br/><b>middle</b> 54:12</p> |
| <b>M</b>   |  |   |
|  |  |   |

|  |  |  |
|--|--|--|
| <b>might</b> 30:25 35:12<br>42:3,4 55:18,19<br>56:4 57:25 58:11<br><b>million</b> 46:6 62:7<br><b>mind</b> 33:16 44:3<br>46:11 64:16<br><b>mine</b> 14:24<br><b>minorities</b> 23:2<br><b>minute</b> 55:17<br><b>minutes</b> 33:19 46:14<br>64:23<br><b>mischaracterized</b><br>37:9<br><b>misconceptions</b><br>34:17<br><b>misinformation</b><br>31:11 33:10 34:10,<br>12 41:13 41:13<br>43:19 44:17,23<br><b>missed</b> 5:23<br><b>missing</b> 30:9<br><b>misstated</b> 37:8<br><b>mix</b> 60:11<br><b>moderate</b> 45:1 52:25<br>53:9 63:17<br><b>moderated</b> 36:10<br>41:20 54:19<br><b>moderation</b> 29:4,8,16,<br>18 30:2,24 31:4,8,<br>11,24 32:4,6,9<br>36:15 38:18 39:25<br>40:1 41:7 48:11<br>55:16 57:23,24<br>59:6,23,25 60:2,4,<br>21 61:8,14 62:25<br>63:15,16,24<br><b>money</b> 64:14<br><b>money's</b> 23:19<br><b>more</b> 9:18 19:14<br>19:14 20:22 23:9,<br>10 28:24 29:2 30:2<br>32:14 33:22 34:2<br>39:22 43:19 46:1<br>48:22 51:5 53:5,13<br>54:21 57:1 57:1<br>60:19 61:4 61:4<br>64:19<br><b>morning</b> 61:21<br><b>most</b> 12:22 23:3<br>30:17,22 31:3 | <b>32:17</b><br><b>mostly</b> 54:19<br><b>motivated</b> 38:22,23<br>39:3,8,9,19 48:17<br>50:13<br><b>mouth</b> 42:7 58:8<br><b>move</b> 31:7 50:20 54:2<br><b>moving</b> 13:22 32:20<br><b>much</b> 8:4 9:2 26:4<br>27:15 27:15 37:18<br>38:21,22 39:15,22<br>45:25 51:1,6,12<br>64:19 | <b>23:21 26:6 32:8,22</b><br>36:6 40:9 52:2<br>57:6,8 60:19 62:12<br><b>nuanced</b> 39:22<br><b>nuances</b> 40:2 50:18<br><b>Number</b> 5:11 17:18<br><b>numbers</b> 26:11,13<br>35:11 |
|  |  | <b>O</b>   |

**oath** 5:11 7:6  
**Objection** 13:19  
14:20 18:10 19:18  
25:10,21 27:18  
28:14 30:1,11,14  
31:13 32:12 34:1  
37:5,6 38:24 39:4,  
13 40:3,17,24  
41:10 42:10,22  
43:21 44:11 45:4,  
11 48:1,14,19 49:8  
50:2 53:12 55:13  
56:1,10,22 57:12,  
18 58:18 59:9,16,  
21 60:5,25 61:17  
62:3,14 63:19 64:4  
**obscenity** 50:6  
**Obviously** 8:25 20:8  
33:5 44:14  
**off** 32:17 35:2,9  
40:13 47:6,8,10  
49:22 62:19 65:3,5  
**Office** 6:13  
**officers** 12:9  
**officially** 9:21  
**old** 52:17  
**older** 58:22  
**once** 34:13 38:6  
**one** 8:21,22 10:17,22,  
22 19:6 20:8 21:6  
21:6,15 22:1,3  
23:1 24:7,12,16,22  
26:14 31:14,18  
41:11 42:14  
**one's** 10:6  
**ones** 19:4  
**ongoing** 28:17,18  
31:15  
**online** 22:7 24:17,20,

|  |  |  |
|--|--|--|
| <p>23 25:13 26:16,20,<br/>     20 27:2,24 29:17<br/>     30:4 36:3,13 37:17,<br/>     21 38:12 50:25<br/>     51:6,11,18,20 63:7<br/> <b>only</b> 12:13,17 19:5<br/>     21:15 23:14 32:1<br/>     37:22 64:5<br/> <b>onto</b> 14:6<br/> <b>open</b> 15:19 58:15<br/> <b>opened</b> 58:24<br/> <b>opening</b> 37:24<br/> <b>opinion</b> 45:10 46:4<br/> <b>opinions</b> 16:21 43:1<br/> <b>opportunity</b> 25:16<br/>     64:15<br/> <b>opposed</b> 21:4 55:9,15<br/> <b>options</b> 42:19<br/> <b>oral</b> 5:5<br/> <b>order</b> 58:15<br/> <b>organization</b> 9:13<br/>     11:7 12:4,6,14<br/>     14:4,9,17 30:16<br/>     43:5<br/> <b>organizations</b> 11:4,<br/>     14,16,18 17:6,7,11,<br/>     15,20 18:16,18,24<br/>     19:1,10 23:20<br/>     30:19 35:16 52:24<br/> <b>orientation</b> 29:11<br/> <b>other</b> 6:17 8:6,9 9:7,<br/>     8 10:7,18 11:4,14,<br/>     17 12:8,11 14:8<br/>     17:6 18:18 19:9<br/>     21:25 22:1,5 23:3,<br/>     10,16 29:13 30:21<br/>     31:18 32:10 33:15<br/>     35:16 38:2 44:6<br/>     44:6,13 48:25<br/>     51:19 54:2 58:2<br/>     59:4 63:8<br/> <b>others</b> 25:2<br/> <b>otherwise</b> 31:10 56:5<br/>     57:22,25<br/> <b>ours</b> 63:11<br/> <b>ourselves</b> 64:13<br/> <b>out</b> 10:23 12:19<br/>     13:10,14 20:20<br/>     21:24 22:7,19<br/>     27:21 28:21 29:19</p> | <p>32:15 33:21 34:16,<br/>     18,19 35:18 36:6<br/>     44:17,23 53:20<br/>     63:13<br/> <b>outing</b> 22:13 23:16<br/> <b>over</b> 6:18 7:1,2<br/>     13:24 28:20,24<br/>     40:8 50:6 62:6<br/>     65:12<br/> <b>overrun</b> 54:1<br/> <b>oversee</b> 10:11<br/> <b>oversees</b> 12:5<br/> <b>own</b> 23:3 48:7,8,9<br/>     53:10 56:24</p> | <p>31:22 35:2,9 36:3,<br/>     5,7,11 37:2 42:3<br/>     43:2 48:8 49:4<br/>     50:10 53:3,4 54:2,<br/>     20 60:8<br/> <b>percent</b> 37:18 41:1<br/>     50:24 51:5,10,16,<br/>     17 59:18<br/> <b>percentage</b> 26:21<br/> <b>percentages</b> 37:20<br/> <b>perfect</b> 41:7,14<br/> <b>period</b> 61:1<br/> <b>permitted</b> 49:6<br/> <b>person</b> 10:4 33:14<br/>     48:23 64:5<br/> <b>perspective</b> 39:14<br/> <b>phone</b> 46:24<br/> <b>phrase</b> 19:25 26:25<br/>     27:1 28:10 36:23<br/> <b>pick</b> 31:2 40:12<br/> <b>picked</b> 30:18<br/> <b>picking</b> 30:17<br/> <b>picture</b> 12:20<br/> <b>place</b> 32:7 52:2,8<br/>     60:2<br/> <b>places</b> 24:22 52:6<br/> <b>plaintiff</b> 64:3,10,12<br/> <b>Plaintiffs</b> 5:16<br/> <b>plan</b> 62:11<br/> <b>platform</b> 18:4 25:2<br/>     34:19 45:1 47:23,<br/>     24 49:22 53:9 57:2,<br/>     7 59:5,15 60:2<br/>     61:22<br/> <b>platforms</b> 17:23 18:9,<br/>     22 19:2 23:9 27:16<br/>     32:25 33:9 34:5,24<br/>     35:3,9 40:16,23<br/>     41:25 43:17 51:2,7,<br/>     13 53:18,23 56:2,4,<br/>     7,11,15,15,24 57:9<br/>     60:18 62:6 63:14<br/> <b>play</b> 35:1 50:19<br/> <b>please</b> 5:14 6:19,20<br/> <b>point</b> 8:12 11:11<br/>     26:10 28:10 29:3<br/>     31:7 35:15 49:3<br/>     65:12<br/> <b>pol</b> 10:24<br/> <b>policies</b> 12:1 20:25</p> |
|--|--|--|

|  |   |  |
|--|---|--|
| <p>23:17 24:1 29:5<br/> 30:3,24 31:4,8,12,<br/> 21,23 32:7,9,20<br/> 39:25 42:16 59:6,<br/> 24,25 60:21 61:9,<br/> 14<br/> <b>policy</b> 9:18,22,24<br/> 10:5,12,22,25 12:7,<br/> 10,18 14:12 18:19<br/> 20:3 21:12 24:8,9<br/> 29:8,16,18 31:25<br/> 32:4 39:7 40:1<br/> 41:8 43:10 45:18<br/> 57:24 57:24 60:2,4,<br/> 7 63:15,16 64:6<br/> <b>policymakers</b> 10:8<br/> <b>pose</b> 37:3<br/> <b>position</b> 10:3 11:10<br/> 13:10 14:13 16:24<br/> 19:17,23 64:6<br/> <b>positions</b> 10:13 11:8<br/> <b>possible</b> 52:5<br/> <b>post</b> 22:16 43:23<br/> <b>posted</b> 34:10<br/> <b>posts</b> 41:8,15 42:1,2,<br/> 4 43:18<br/> <b>PowerOn</b> 11:15,16,22,<br/> 24 12:1,16 17:15,<br/> 17,21,22 52:23<br/> <b>prejudice</b> 21:21<br/> <b>prepare</b> 8:23<br/> <b>present</b> 22:9<br/> <b>President</b> 12:11<br/> <b>pretty</b> 9:2 26:3<br/> 64:22<br/> <b>prevent</b> 59:22<br/> <b>previous</b> 34:12<br/> <b>print</b> 34:23<br/> <b>priorities</b> 31:19<br/> <b>Privacy</b> 11:6 20:24<br/> 21:1 22:24 23:16<br/> 24:1 28:11,13,19,<br/> 23 29:7,9,13,25<br/> 30:10 53:14<br/> <b>privacy's</b> 23:18<br/> <b>private</b> 29:12,15<br/> 54:14 60:13<br/> <b>privileged</b> 18:2<br/> <b>probably</b> 7:2 9:25<br/> 13:8 29:2 58:23</p> | <p><b>problem</b> 31:17 45:19,<br/> 20<br/> <b>procedure</b> 41:16<br/> <b>proceed</b> 47:14 65:9<br/> <b>processes</b> 60:14<br/> <b>profiles</b> 29:15<br/> <b>profit</b> 10:18<br/> <b>Program</b> 12:16 17:21<br/> 52:24<br/> <b>progress</b> 51:25<br/> <b>prohibition</b> 57:23<br/> <b>promise</b> 33:17<br/> <b>promotes</b> 43:15<br/> <b>proponent</b> 48:6<br/> <b>proportion</b> 63:8<br/> <b>proposed</b> 25:6<br/> <b>protect</b> 22:10 28:22<br/> 59:24<br/> <b>protected</b> 31:23<br/> 43:13 48:6<br/> <b>protecting</b> 32:2,9<br/> <b>protection</b> 20:25<br/> 48:7 52:4<br/> <b>protections</b> 24:19<br/> <b>provide</b> 11:25 12:2<br/> 58:15<br/> <b>provided</b> 26:15<br/> <b>provider</b> 18:6 19:8<br/> <b>providers</b> 18:21<br/> 19:10<br/> <b>providing</b> 6:16<br/> <b>psychological</b> 41:16<br/> <b>psychologically</b> 33:13<br/> <b>public</b> 20:3 21:5<br/> 22:22 58:13 60:7<br/> <b>pull</b> 35:15<br/> <b>purely</b> 10:23<br/> <b>purports</b> 41:15<br/> <b>purpose</b> 41:21<br/> <b>purposes</b> 35:22<br/> <b>push</b> 54:24<br/> <b>put</b> 30:4 32:15 42:7<br/> 43:17 43:17 52:16<br/> 58:8 61:13</p> | <p>22,23 8:1,3,15<br/> 21:8 27:20 33:22<br/> 39:23 40:13 41:5,<br/> 24 43:25 44:2 50:7<br/> 51:6,9 53:22 58:25<br/> 59:10<br/> <b>questions</b> 6:15 12:23<br/> 16:19 22:13 23:5<br/> 27:9 27:9 28:5<br/> 45:13 58:3 65:13</p>   |
|  |   | <b>R</b>   |
|  |   | <p><b>raise</b> 22:13<br/> <b>raising</b> 43:6,11<br/> <b>range</b> 21:2<br/> <b>rate</b> 37:21<br/> <b>rather</b> 8:4 48:22<br/> <b>reach</b> 21:24<br/> <b>reached</b> 13:10<br/> <b>read</b> 36:22 53:18,20,<br/> 21 56:18<br/> <b>ready</b> 47:14 65:9<br/> <b>real</b> 22:9 38:12<br/> <b>realistic</b> 63:25<br/> <b>reality</b> 22:3,6<br/> <b>realize</b> 7:5<br/> <b>really</b> 24:16 46:2<br/> 50:13 62:7,25 63:6,<br/> 25 64:23 65:15<br/> <b>reason</b> 56:16<br/> <b>reasons</b> 23:16<br/> <b>recall</b> 14:5 14:5<br/> <b>recommend</b> 45:10<br/> <b>record</b> 5:15 6:25<br/> 7:12,17 9:3 47:6,8,<br/> 10,12 65:3,5,7<br/> <b>recourse</b> 33:16 59:8,<br/> 13 61:5<br/> <b>recovering</b> 24:12<br/> <b>referring</b> 33:4 37:15<br/> 42:9<br/> <b>refers</b> 51:24 54:11<br/> 57:4<br/> <b>reflect</b> 55:6<br/> <b>refresh</b> 53:19<br/> <b>refused</b> 63:15<br/> <b>regard</b> 43:14<br/> <b>regarding</b> 19:17<br/> 29:24 60:20</p> |
|  | <p style="text-align: center;"><b>Q</b></p>   |  |
|  |   |  |

|   |   |  |
|---|---|--|
| <b>regroup</b> 46:14<br><b>regulate</b> 48:8<br><b>regulation</b> 47:25<br><b>related</b> 9:18<br><b>relationships</b> 11:4<br><b>release</b> 28:25<br><b>religious</b> 39:21<br>48:25 49:5<br><b>religiously</b> 38:21,22<br>39:3,8,9,19 48:12,<br>13,17 50:12<br><b>rely</b> 53:6<br><b>remedy</b> 43:1,2<br><b>remotely</b> 5:8,12<br><b>removed</b> 39:10 40:15,<br>23 42:1<br><b>removing</b> 30:23<br><b>reported</b> 51:11<br><b>reporter</b> 7:6,11 15:5,<br>20<br><b>reporting</b> 5:11<br><b>representing</b> 22:8<br><b>requested</b> 65:25<br><b>required</b> 62:2 63:17<br><b>re-review</b> 26:17<br><b>research</b> 22:4 26:15,<br>18,25 27:3,21,23<br>35:18 37:17 38:20<br>51:15 52:19 53:6<br>54:3,6<br><b>reservations</b> 19:21<br><b>resources</b> 34:16 36:3,<br>7,14 38:13 60:9<br>61:5 64:5,9<br><b>resources-wise</b> 31:1<br><b>responded</b> 61:23<br><b>restricted</b> 41:17,19<br><b>restriction</b> 38:9<br>52:7<br><b>result</b> 13:6<br><b>review</b> 27:3 35:20,21<br><b>reviewed</b> 8:25 9:1,6,<br>8<br><b>reviews</b> 10:4<br><b>rewrite</b> 25:16<br><b>rid</b> 25:4 53:1<br><b>right</b> 6:10 8:1,21<br>16:4 19:21 22:3<br>25:4 29:6 32:8<br>37:12 46:19,21 | 47:2,4 60:19 61:23<br>62:12 65:19<br><b>rights</b> 11:7 28:17<br>35:14,16 42:24<br><b>ringing</b> 63:8<br><b>rise</b> 50:11<br><b>robust</b> 21:12<br><b>rolling</b> 51:25<br><b>room</b> 61:16,18<br><b>Roughly</b> 51:10<br><b>round</b> 12:19<br><b>rules</b> 7:1<br><b>run</b> 45:19<br><b>runs</b> 12:16<br><b>rural</b> 21:14 | <b>search</b> 26:12 27:2,14,<br>17<br><b>searching</b> 26:23<br><b>second</b> 20:2 31:6<br><b>Section</b> 13:2,5,7,10<br>20:8 24:6,9,14,16,<br>19 25:1,9,16,17<br>26:1 48:5,6 59:20,<br>22,24<br><b>see</b> 7:23 15:16,25<br>16:3 16:3,13 18:3<br>19:16 26:7 28:8<br>32:22 36:20 41:23<br>42:3,19,25 47:4,19<br>50:7,22<br><b>seeking</b> 33:15 36:13<br><b>seem</b> 32:18<br><b>seen</b> 24:18 25:24<br>29:12 32:7 34:6<br>35:13,16 42:13<br><b>sees</b> 21:16<br><b>send</b> 15:3<br><b>sense</b> 43:10 52:3<br><b>sensitive</b> 22:11,12,<br>20<br><b>sensitivities</b> 23:22<br><b>sent</b> 14:22 15:15<br><b>sentence</b> 20:2 32:23<br>36:23 36:23 37:14<br>51:24 52:10,15<br>53:16,18 54:5,12<br>56:18,19 57:4<br><b>service</b> 18:1,6,21<br>19:10 29:18<br><b>services</b> 32:25 33:3,<br>4,24 35:25<br><b>set</b> 42:2<br><b>severe</b> 51:5<br><b>sexual</b> 29:10<br><b>sexuality</b> 33:12<br><b>shadow</b> 42:11<br><b>shaking</b> 7:14<br><b>shaped</b> 20:21<br><b>share</b> 15:7,25<br><b>sharing</b> 16:4,10<br><b>sheer</b> 35:1<br><b>should</b> 20:21 39:8,10,<br>18 40:15,22 41:17<br>43:10 45:24 47:24<br>48:18 49:6,7,22 |
| <b>S</b>  |   |  |

|  |  |  |
|--|--|--|
| 50:15 60:3<br><b>show</b> 35:11<br><b>showed</b> 14:22<br><b>shows</b> 26:18<br><b>side</b> 10:5,6,8,12,17, 18,22 12:18 17:19<br><b>sides</b> 10:6,16 25:25<br><b>sign</b> 13:23 14:6 58:6, 14<br><b>Signature</b> 65:25<br><b>signed</b> 16:8<br><b>significant</b> 38:8<br><b>Silver</b> 5:8<br><b>similar</b> 13:17,21<br><b>simple</b> 45:23<br><b>simply</b> 15:25 28:3 47:23 52:16<br><b>Simultaneous</b> 5:21 11:20 27:8 44:9 46:23 60:23 62:16<br><b>Since</b> 6:25 9:20 15:2 25:15 34:7 58:24<br><b>sir</b> 15:17 26:8 47:20<br><b>site</b> 29:11<br><b>sites</b> 52:3 53:1,2 54:1,2 56:12 57:14<br><b>situation</b> 61:3<br><b>six</b> 9:25<br><b>skip</b> 26:5<br><b>slice</b> 46:7<br><b>sliced</b> 44:1<br><b>slur</b> 37:23<br><b>slurs</b> 37:22 39:2<br><b>small</b> 12:14 14:4,9 30:16<br><b>smaller</b> 21:14<br><b>so-and-so</b> 22:17<br><b>social</b> 17:23 18:3,8, 21 19:2,8 23:8 25:1 27:16,24 28:18 29:11,14 31:15 32:17 40:15, 23 41:24,25 43:16 45:1,6 47:22 51:2, 7,13,25 52:3 53:8 57:13 59:4,14 60:1, 18 61:19,22 63:14, 23<br><b>societies</b> 42:24<br><b>some</b> 12:23 13:3 | 16:19 24:8 35:15 41:25 42:1 42:1,2, 3 49:4 58:6,9 59:4 60:13 61:10 63:10 65:11<br><b>somebody</b> 22:12 39:16 59:3<br><b>somebody's</b> 46:3<br><b>someone</b> 21:17 22:14, 18<br><b>something</b> 6:21 22:11, 20,22,23 29:2,19 30:9 42:12 43:9,19 45:23 50:16 52:13 53:14 61:6 64:13<br><b>sometimes</b> 33:2 35:25<br><b>somewhere</b> 17:18<br><b>sorry</b> 5:23 30:15 62:18,20<br><b>sort</b> 33:20 45:2 47:23<br><b>sound</b> 7:18<br><b>Sounds</b> 6:24 8:2 33:18 46:15<br><b>space</b> 23:4 48:7<br><b>spans</b> 36:18<br><b>speak</b> 6:18 7:13 21:18 30:20 57:20 63:13<br><b>speaker</b> 5:21<br><b>speakers</b> 11:20 27:8 44:9 46:23 60:23 62:16<br><b>speaking</b> 21:17<br><b>special</b> 24:10<br><b>specific</b> 19:25 20:5, 6 21:4,20 23:15,22 24:4 40:5 43:23 45:7 48:21 52:18 53:6 58:2<br><b>specifically</b> 14:6 35:24 45:6 57:20<br><b>specifics</b> 63:22<br><b>spectrum</b> 61:12<br><b>speech</b> 30:4 34:18,20 35:17 36:14,16 37:24 38:2 38:2,7, 17,17,19,21 39:2,8, 9,11,16,21 47:24 48:12,13,17,21,22, | 23,25 49:1,6,17,21, 24 50:8,9,12 52:7 53:3 56:2,4,7,12, 13 63:18<br><b>spend</b> 12:21 16:17<br><b>split</b> 27:21<br><b>spoke</b> 8:25<br><b>spoken</b> 20:11,20<br><b>sports</b> 38:5<br><b>Spring</b> 5:8<br><b>stable</b> 33:13<br><b>Standard</b> 5:5 30:6<br><b>start</b> 7:22 42:8<br><b>started</b> 9:13 13:7,8<br><b>starting</b> 21:23 44:16<br><b>starts</b> 52:11<br><b>stat</b> 51:9<br><b>state</b> 5:14 9:1,4 37:11 54:13,15,22 55:6 57:10,17,19, 20,21<br><b>stated</b> 56:25<br><b>state-imposed</b> 57:23<br><b>statement</b> 39:15 41:1 45:14 49:21 50:15<br><b>state-run</b> 57:5,8<br><b>states</b> 34:9 54:18<br><b>State's</b> 57:9<br><b>statistic</b> 50:24 51:4<br><b>statistics</b> 35:12 51:15 53:6<br><b>status</b> 29:10<br><b>stay</b> 26:1<br><b>stenographic</b> 5:12<br><b>steppingstones</b> 24:17<br><b>steps</b> 32:19 60:9<br><b>stickiness</b> 23:10<br><b>sticking</b> 30:18<br><b>still</b> 16:13 17:2 44:5 46:20 47:19 50:21 59:6<br><b>stop</b> 16:10 62:24<br><b>straight</b> 51:11 52:16 58:12<br><b>streamline</b> 28:3<br><b>struck</b> 24:13<br><b>struggling</b> 33:11<br><b>studies</b> 35:5,10,13, 21 38:20 |
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|   |  |   |
|---|--|---|
| <b>stuff</b> 34:23<br><b>subject</b> 47:25 58:11<br><b>subjects</b> 21:2<br><b>such</b> 33:1 36:16<br>38:14 42:3 63:18<br><b>sue</b> 59:14<br><b>sufficient</b> 43:16<br><b>suggest</b> 24:1<br><b>suggestions</b> 25:3<br><b>summarize</b> 17:6<br><b>support</b> 13:11 36:13<br>38:13 40:20 53:22<br>63:17<br><b>supported</b> 37:16<br><b>supporting</b> 40:18<br>62:21<br><b>supposed</b> 55:5<br><b>sure</b> 6:16 7:3,24 8:4,<br>8 12:23 14:12 15:6<br>16:1,20 17:17<br>18:14 19:20 21:6<br>22:21 25:14 27:6<br>30:9 31:22 37:12,<br>13 42:18,25 44:25<br>45:9 46:9 59:18<br>60:7,17 61:7<br><b>surgery</b> 38:5<br><b>survived</b> 36:4<br><b>sworn</b> 6:7 7:5<br><b>sympathetic</b> 21:19 | <b>64:6</b><br><b>talking</b> 8:7 9:4 13:8<br>20:17 31:20 38:4<br>42:8,16 43:8 45:19<br>55:18<br><b>talks</b> 28:20<br><b>tangentially</b> 9:20<br><b>targeted</b> 51:5<br><b>targets</b> 38:1<br><b>Tech</b> 9:11,18,20 10:3,<br>17,23,25 11:13<br>12:8,13 14:12,18<br>16:24 17:4,9 18:3<br>24:7 29:24 39:6<br>61:22 62:1,10,21<br>64:2<br><b>technical</b> 13:17<br><b>techniques</b> 42:11<br><b>Technology</b> 5:7 10:7,<br>10 11:5,25 17:8,12<br>20:3,4 21:1 23:21<br><b>teens</b> 38:5 44:15<br><b>telecom</b> 9:16<br><b>telecommunications</b><br>9:15 20:4<br><b>telehealth</b> 10:14<br>20:13,14,14 21:10,<br>12,12,17,21<br><b>Tell</b> 12:21 45:8<br>58:13<br><b>telling</b> 57:21<br><b>ten</b> 46:13 47:5 64:22<br><b>tend</b> 26:19<br><b>tension</b> 39:11<br><b>term</b> 42:6<br><b>terms</b> 29:14 31:21<br><b>testified</b> 6:7<br><b>testimony</b> 7:6 37:9<br><b>Texas</b> 5:13 6:4 9:1,4,<br>7 13:18 14:15<br>54:13<br><b>text</b> 9:8<br><b>than</b> 8:5 9:8 19:15<br>22:9 23:10 26:21<br>29:2 38:2 39:18,23<br>44:7 46:3 48:22<br>53:5 60:20 63:8<br>64:12<br><b>Thank</b> 6:1,2 12:19<br>65:16,18,19,21 | <b>That's</b> 9:1 13:17<br>15:15 16:4 17:2<br>21:8,17 22:20<br>23:21 26:14 27:6,<br>20 28:7 30:5 32:15<br>33:14,20 39:15<br>40:7,19 42:6,14<br>45:23 46:12 47:2<br>48:13 52:9 59:1<br>63:12 63:12 64:15<br>65:1<br><b>their</b> 5:14 9:22,24<br>19:22,23 21:16<br>21:16,19 22:7,20<br>23:3,5 26:21 31:5,<br>21 32:9,20 33:12,<br>16 34:11 35:14<br>36:13 38:12 49:5<br>52:25 53:9,10<br>54:15 56:12,15,21,<br>24 59:23 60:3,21<br>63:15<br><b>themselves</b> 18:22<br>54:24<br><b>then</b> 6:15,19 7:16,24<br>15:7 16:16 18:17<br>25:8 31:6 35:22<br>41:6 42:3 46:14<br>49:24 51:4,9 54:4,<br>15,24 56:18 57:1<br>64:25<br><b>therapies</b> 44:19<br><b>therapy</b> 33:7,10,20<br>36:3,4,5,7,9,12<br>40:11,15,18,21,22<br>41:9,15 42:21<br>43:16 44:7 45:25<br>46:1<br><b>there</b> 9:7 10:16 12:8<br>13:16,17,21 17:18<br>19:25 23:15 26:11<br>28:10 29:4 32:14,<br>15 33:8,18 34:16<br>35:9,18 36:3,15<br>39:12 41:3 43:2<br>44:6 44:6,17,23<br>45:16,22,22,23<br>47:1,22 48:16<br>48:16 49:4 50:9<br>51:4,10,24 52:3 |
| <b>T</b>  | <b>tackle</b> 31:2<br><b>take</b> 8:12,15 11:9,11<br>14:9 25:8 46:11<br>49:3 56:3 60:10<br>64:9,16<br><b>taking</b> 6:14 24:25<br>32:19<br><b>talk</b> 7:21 8:6 18:12,<br>23 19:1,5,9 20:19<br>21:11 22:25 23:21<br>24:4,24 25:15<br>28:19,22 31:21<br>33:6,12,19 36:2<br>44:15,16 46:5<br><b>talked</b> 7:20 19:12,22<br>20:24 22:1,2,9<br>45:6 54:20 61:3,8  | <b>tend</b> 26:19<br><b>tension</b> 39:11<br><b>term</b> 42:6<br><b>terms</b> 29:14 31:21<br><b>testified</b> 6:7<br><b>testimony</b> 7:6 37:9<br><b>Texas</b> 5:13 6:4 9:1,4,<br>7 13:18 14:15<br>54:13<br><b>text</b> 9:8<br><b>than</b> 8:5 9:8 19:15<br>22:9 23:10 26:21<br>29:2 38:2 39:18,23<br>44:7 46:3 48:22<br>53:5 60:20 63:8<br>64:12<br><b>Thank</b> 6:1,2 12:19<br>65:16,18,19,21   |

|   |   |   |
|---|---|---|
| <p>53:2,8,16,24 60:15,<br/>19 61:16 62:1,8<br/>63:22<br/><b>therefore</b> 23:8<br/><b>there's</b> 21:13 30:19<br/>31:14 34:9,11,12,<br/>15,21 35:18 41:1<br/>43:1 44:16,21,22<br/>46:6 49:18 49:18<br/>50:18 61:15,18<br/><b>these</b> 12:11 17:7<br/>18:16,17 19:1 21:3<br/>23:8,13 32:1,10<br/>34:5 35:3,25 36:7<br/>38:7 43:7 45:13<br/>49:24 52:6 53:17,<br/>23 60:16 61:2 63:9,<br/>10<br/><b>They're</b> 17:24 18:1,2<br/>20:25 23:6 26:23<br/>36:10 44:22 55:2<br/>56:13 59:6 60:10,<br/>14,20 62:25<br/><b>thing</b> 15:7 31:18<br/><b>things</b> 14:7,8,9<br/>20:19 24:12 28:3<br/>31:18 32:10 41:3<br/>50:10 60:13 63:10<br/><b>think</b> 10:4 16:23<br/>19:6 24:4 25:11,19,<br/>24 26:3 27:1 28:16,<br/>18 31:3,16,17,20<br/>32:8,13,13,14,16<br/>37:18 41:11 42:16<br/>43:16,19,24 45:12,<br/>17 48:10,22 53:10,<br/>11 58:12 58:12<br/>59:17 60:6,19,22<br/>61:1,10,15,18,21<br/>63:12,25 64:21,23<br/><b>thinking</b> 45:15 49:10<br/><b>thinly</b> 44:1<br/><b>third</b> 32:22<br/><b>Those</b> 10:14 17:15,22<br/>18:20 20:5 24:7<br/>29:25 35:21 36:11,<br/>14 38:6 40:2 42:19<br/>43:18<br/><b>though</b> 55:4<br/><b>thought</b> 18:16 20:16</p> | <p>40:4 43:9 62:7,9<br/>64:15,20<br/><b>three</b> 9:21 12:13<br/><b>three-person</b> 43:5<br/><b>through</b> 12:22 15:4,8,<br/>15 16:16,18,25<br/>17:14,21 20:9 20:9<br/>21:7 24:13 26:4<br/>27:16 36:4,8,12<br/>40:5 42:25 52:17,<br/>23 53:3 53:3 59:2<br/><b>time</b> 5:4,5 7:21<br/>12:22 13:22 16:18<br/>28:4 46:20 53:19<br/>58:3 64:9,14 65:13,<br/>18,20<br/><b>times</b> 11:9<br/><b>Timing</b> 14:4<br/><b>today</b> 5:18 6:14,25<br/>7:6,9 8:12,24<br/>12:22 16:19 25:15<br/>32:7 58:4 59:3<br/>60:19 61:10<br/><b>Today's</b> 5:3<br/><b>Todd</b> 5:17 46:11<br/>62:17 64:16<br/><b>toggle</b> 29:12<br/><b>oggled</b> 22:23<br/><b>too</b> 13:17 39:15<br/>48:20 61:16<br/><b>tool</b> 53:13<br/><b>top</b> 36:18 52:12,14,<br/>15<br/><b>totally</b> 44:14<br/><b>touched</b> 48:10<br/><b>trade</b> 12:6<br/><b>trans</b> 36:12 38:4<br/>52:16<br/><b>transgender</b> 21:22<br/>22:5 24:21,22 34:8,<br/>10,13 35:13,14<br/>44:14,15,19,20<br/>49:5 50:10<br/><b>transition</b> 24:24<br/>34:14<br/><b>transitioning</b> 44:16,<br/>22<br/><b>transparency</b> 60:16,<br/>20 61:4,13,19<br/><b>transparency's</b> 61:1,</p> | <p>6<br/><b>transparent</b> 60:3<br/>61:15<br/><b>treated</b> 39:20,22<br/><b>treating</b> 41:13<br/><b>tries</b> 55:21<br/><b>troublesome</b> 25:25<br/><b>try</b> 7:24 22:7 31:18<br/><b>trying</b> 7:12 8:5<br/>18:15,20 19:20<br/>28:3 33:17 34:17<br/><b>turn</b> 23:8<br/><b>tutorial</b> 24:24<br/><b>Twitter</b> 34:22,25<br/><b>two</b> 9:16 10:5,16<br/>12:17<br/><b>type</b> 45:12 49:21<br/><b>types</b> 42:19 44:6<br/>48:25 49:24</p> <hr/> <p style="text-align: center;"><b>U</b></p> <p><b>uh-huh</b> 7:15 28:12<br/><b>under</b> 7:6 18:1 24:3<br/>30:3 31:23 48:5<br/>53:23 56:12 58:10<br/><b>underprivileged</b><br/>10:7<br/><b>understand</b> 7:9 12:24<br/>16:20 18:11 56:19<br/>60:12<br/><b>understanding</b> 8:8<br/>19:19 36:25<br/><b>unhealthy</b> 46:2<br/><b>unintended</b> 43:12<br/>63:3<br/><b>unique</b> 24:10 36:24<br/>37:2 37:2,14 38:9<br/><b>unnecessary</b> 28:5<br/><b>unsafe</b> 33:1<br/><b>unusable</b> 53:3<br/><b>uptick</b> 34:6<br/><b>usage</b> 27:12,24,24<br/><b>use</b> 7:16 13:24 16:8<br/>26:11,20 32:25<br/>34:24 44:5<br/><b>used</b> 18:17 28:24<br/>33:19 37:22<br/><b>useful</b> 36:9<br/><b>user</b> 28:20,24 53:14</p> |
|---|---|---|

|   |   |   |
|---|---|---|
| <b>users</b> 24:2 52:16<br>53:9,17,23 60:3<br><b>uses</b> 28:10 36:23<br><b>using</b> 22:6  | <b>wanted</b> 20:1 26:4<br>30:8 45:1 49:12<br><b>wanting</b> 33:20<br><b>wants</b> 48:8<br><b>Washington</b> 5:18<br><b>wasn't</b> 30:9<br><b>waste</b> 28:4<br><b>way</b> 15:3,5 21:24<br>24:18 25:7 27:5<br>29:23 30:24 40:14<br>42:20 49:16 50:9<br>53:8 63:23<br><b>ways</b> 33:15 44:2 46:6<br><b>website</b> 34:21 48:7<br><b>websites</b> 34:3,16<br>53:4 54:19 57:13<br><b>we'd</b> 13:13<br><b>weeds</b> 43:7<br><b>weigh</b> 14:11 64:7<br><b>weird</b> 63:22<br><b>welcome</b> 37:9<br><b>well</b> 6:5,12,18 9:12<br>11:2 12:1,7 16:16<br>24:3,11 26:6 29:23<br>40:8,13 49:2 56:23<br>65:8,11,19<br><b>we'll</b> 8:16 11:11<br>21:11<br><b>went</b> 7:2 9:16 24:13<br>33:25 61:25<br><b>we're</b> 7:3,8,12 8:8<br>12:14 14:4,8,8<br>15:6 17:20 18:24<br>22:25 25:14 26:6<br>30:16,17 36:19<br>40:9 43:5,8,11<br>44:5 47:8,11,18<br>54:9 65:3,6<br><b>we've</b> 10:15 13:13<br>16:11,23 20:11,20,<br>24 22:9 26:3 46:10<br>53:14 61:3<br><b>whatever</b> 42:6 56:16<br><b>what's</b> 11:8 11:8,10<br>29:7 45:3 45:3<br>64:20<br><b>wherever</b> 62:25<br><b>whether</b> 42:5 50:12,<br>14,15 61:21<br><b>which</b> 6:14 12:4 19:4 | 20:2 33:7,19 36:18<br>48:24<br><b>while</b> 9:13 13:3 15:2<br>44:4<br><b>white</b> 52:16 55:10,15<br><b>who</b> 11:1 12:16,17<br>21:22,24 22:11,18<br>26:11 36:3,4,5,5,7,<br>8,11,12,13 38:11<br>44:16 49:4 50:10<br>51:20 52:9 59:3<br>64:6<br><b>whole</b> 25:25 36:22<br>44:21 53:18 64:11<br><b>whose</b> 36:8<br><b>why</b> 14:3 20:14,17,25<br>21:3,7,8,11 23:6,<br>16 48:24 62:15,21<br>63:12 64:2<br><b>will</b> 7:15 10:13<br>11:12 17:11,12<br>21:13 22:16,17<br>25:6 32:24 33:1,14<br>34:22 35:2 36:9,23<br>38:9,15,15 53:17,<br>23 54:5,16 57:2,3<br>65:14<br><b>win</b> 54:25<br><b>Within</b> 12:8 17:8<br>22:15,19<br><b>without</b> 30:4 31:8<br>33:16 34:18 38:8<br>43:22 44:13 45:15<br>52:7 56:2 63:10<br><b>witness</b> 5:8 65:14<br><b>wondering</b> 37:13<br><b>won't</b> 36:22 39:17<br>53:20<br><b>Wood</b> 11:3 12:15,17<br>14:22<br><b>word</b> 18:16 29:19<br>44:5<br><b>words</b> 7:17 42:7 58:8<br><b>work</b> 7:4 9:11,15,17,<br>19 11:17,25 12:6<br>13:4,7,11 17:11,12<br>19:22 20:8,13 24:4<br>30:20,22 35:16<br>42:25 52:22,24<br>58:6 |
| <b>viewpoints</b> 54:15<br>54:15 56:21<br><b>views</b> 13:14<br><b>Virginia</b> 5:22<br><b>virtual</b> 22:3,6<br><b>visual</b> 6:21<br><b>voice</b> 23:17<br><b>voices</b> 25:2 54:21<br>57:1,2                                       | <b>viewpoint</b> 48:23<br>54:23 55:4,22,25<br>57:7<br><b>viewpoints</b> 54:15<br>54:15 56:21<br><b>views</b> 13:14<br><b>Virginia</b> 5:22<br><b>virtual</b> 22:3,6<br><b>visual</b> 6:21<br><b>voice</b> 23:17<br><b>voices</b> 25:2 54:21<br>57:1,2   | <b>W</b>  |
| <b>walk</b> 15:8 59:2<br><b>walking</b> 12:22 16:18<br><b>Walton</b> 6:3,13<br><b>want</b> 6:16,19 7:1,2<br>8:8 12:21,25 13:16<br>16:17,25 21:6 27:6<br>28:6 32:21 37:12<br>42:7 46:7 52:13,17<br>54:23 56:15 58:8,<br>10,14 64:18,24 | <b>wanted</b> 20:1 26:4<br>30:8 45:1 49:12<br><b>wanting</b> 33:20<br><b>wants</b> 48:8<br><b>Washington</b> 5:18<br><b>wasn't</b> 30:9<br><b>waste</b> 28:4<br><b>way</b> 15:3,5 21:24<br>24:18 25:7 27:5<br>29:23 30:24 40:14<br>42:20 49:16 50:9<br>53:8 63:23<br><b>ways</b> 33:15 44:2 46:6<br><b>website</b> 34:21 48:7<br><b>websites</b> 34:3,16<br>53:4 54:19 57:13<br><b>we'd</b> 13:13<br><b>weeds</b> 43:7<br><b>weigh</b> 14:11 64:7<br><b>weird</b> 63:22<br><b>welcome</b> 37:9<br><b>well</b> 6:5,12,18 9:12<br>11:2 12:1,7 16:16<br>24:3,11 26:6 29:23<br>40:8,13 49:2 56:23<br>65:8,11,19<br><b>we'll</b> 8:16 11:11<br>21:11<br><b>went</b> 7:2 9:16 24:13<br>33:25 61:25<br><b>we're</b> 7:3,8,12 8:8<br>12:14 14:4,8,8<br>15:6 17:20 18:24<br>22:25 25:14 26:6<br>30:16,17 36:19<br>40:9 43:5,8,11<br>44:5 47:8,11,18<br>54:9 65:3,6<br><b>we've</b> 10:15 13:13<br>16:11,23 20:11,20,<br>24 22:9 26:3 46:10<br>53:14 61:3<br><b>whatever</b> 42:6 56:16<br><b>what's</b> 11:8 11:8,10<br>29:7 45:3 45:3<br>64:20<br><b>wherever</b> 62:25<br><b>whether</b> 42:5 50:12,<br>14,15 61:21<br><b>which</b> 6:14 12:4 19:4 | <b>walk</b> 15:8 59:2<br><b>walking</b> 12:22 16:18<br><b>Walton</b> 6:3,13<br><b>want</b> 6:16,19 7:1,2<br>8:8 12:21,25 13:16<br>16:17,25 21:6 27:6<br>28:6 32:21 37:12<br>42:7 46:7 52:13,17<br>54:23 56:15 58:8,<br>10,14 64:18,24   |

|   |  |  |
|---|--|--|
| <b>worked</b> 23:25<br><b>working</b> 12:11 13:2<br>16:11<br><b>works</b> 24:8 58:13<br><b>world</b> 22:15,17,17,18,<br>19 41:7,14<br><b>worlds</b> 20:21,23<br>22:16,19<br><b>worst</b> 32:17 32:17<br><b>wouldn't</b> 45:8 45:8<br>63:24<br><b>wrap</b> 64:23<br><b>write</b> 13:1<br><b>written</b> 7:17 25:18<br><b>wrong</b> 44:18 |  |  |
|---|--|--|

**Y**

|  |  |  |
|--|--|--|
| <b>y'all</b> 39:11<br><b>year</b> 9:23<br><b>years</b> 9:16,21,25<br>58:19,23<br><b>yes-or-no</b> 44:2<br><b>you'll</b> 6:15 7:21<br>42:25<br><b>young</b> 52:17<br><b>younger</b> 23:9<br><b>you're</b> 7:24 8:3,6<br>16:20 18:13,18<br>20:8 22:22 25:8<br>33:4,21 35:10<br>37:24 42:16 45:14<br>46:19 48:2 58:5<br>58:5,8,9<br><b>yours</b> 6:22<br><b>youth</b> 10:7 26:11,15<br>52:23 52:23<br><b>YouTube</b> 24:21<br><b>you've</b> 32:7,10 35:5<br>49:24 53:21 |  |  |
|--|--|--|

**Z**

|                  |  |  |
|------------------|--|--|
| <b>Zoom</b> 15:2 |  |  |
|------------------|--|--|